

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. 600/93

Wednesday, the eighth day of December, 1993

MR. N. DHARMADAN MEMBER (JUDICIAL)

MR. S. KASIPANDIAN MEMBER (ADMINISTRATIVE)

K. Radhakumari, E.D. Packer
Manacaud, Thiruvananthapuram

Applicant

By Advocate Mr. G. Sasidharan Chempazhanthiyil

vs.

1. The Supdt. of Post Offices
Southern Division, Trivandrum

2. The C.P.M.G., Kerala Circle
Trivandrum

3. Director General, Postal Department
New Delhi

4. Union of India represented by its
Secretary in the Ministry of Communications
New Delhi

Respondents

By Advocate Mr. S. Krishnamoorthy, ACGSC

ORDER

N. DHARMADAN

Applicant originally worked as part-time Sweeper-cum-Scavenger from 1970 in the Postal Department. She has approached this Tribunal under section 19 of the Administrative Tribunals Act for a declaration that she has got legal right to be considered for regularisation in a group-D post as per Annexure-IV instructions notwithstanding the fact that she has been appointed as E.D. Packer, Manacaud Post Office on 1.8.83. The applicant further prays for a direction to the respondents to consider her part-time service prior to the appointment of E.D. post for regularising her service in accordance with law considering her representation Annexure-VII.

2. According to the applicant she was originally appointed as part-time Sweeper-cum-Scavenger from June, 1970 for doing the work at the rate of ~~two~~ ^{four} hours per day. From early 1981 1.8.83 the hours of work were enhanced to six hours per day.

communications made
with order in m.p.
38194 dt. 10/11/94

R. T. S. S.

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When the applicant sent a representation on 3.11.82 for regularisation in the group-D post it was rejected as per Annexure-I order dated 26.11.82. But the applicant was appointed as E.D. Packer in the same post office w.e.f.

1.8.83. Having known about Annexure-IV instructions regarding regularisation of part-time employees in group-D posts, applicant submitted further representations, the latest of which is Annexure-VII. The representations have not been disposed of so far. The applicant also pointed out that the benefit of Annexure-IV instructions was granted to similarly situated ~~xxxx~~ casual employees like Smt. P. Rajalekshmi who has been given regularisation in group-D post in October, 1992. She also brought our attention to the decision of this tribunal in O.A. 1146/91 and contended that even if the applicant has been working as E.D. Packer, the benefit of her prior casual service cannot be denied to her to get regularisation in group-D post.

3. The claim of the applicant can be considered in the light of the principle laid down by this Tribunal in O.A. 1146/91. The operative portion of the judgment reads as follows:

"Accordingly, we direct the first respondent to consider the claim of the applicant for regularisation in the light of Annexure-II letter of the DGP&T) taking into account the arguments based on discriminatory treatment as extracted above in the light of the three cases of similarly situated persons and regularise her service if the decision is in her favour by creating a supernumerary post, in case such creation of post becomes necessary having regard to the fact that the applicant was continuing in service from 1967 onwards."

4. Merely because the applicant has been appointed as E.D. Packer in the year 1983 she cannot be denied the benefit of service rendered by her in the same post office in the capacity as Sweeper-cum-Scavenger from 1970 before appointment as E.D. Packer. Annexure-IV (Annexure-II in the judgment referred to above) does not make mention of any

circumstances barring consideration of part-time employee who has been employed as E.D. Agent for consideration of regularisation of such employees in Group-D when such post becomes available and the candidate is otherwise suitable for consideration. Since the representation filed by the applicant in this behalf for consideration of regularisation in accordance with law is pending, we are not expressing our final opinion regarding right of the applicant for regularisation.

5. Having regard to the facts and circumstances of the case, we are of the view that the application can be disposed of in the interest of justice directing the second respondent to consider the claim of the applicant in accordance with law bearing in mind the decision of Tribunal in O.A. 1146/91 and Annexure-IV instructions issued by the Department, uninfluenced by any of the contentions raised by the respondents in the reply statement. This shall be done within the period of four months from the date of receipt of the copy of this judgment.

6. The application is disposed of as above.

7. There shall be no order as to costs.



(S. KASIPANDIAN)
MEMBER (ADMINISTRATIVE)



(N. DHARMAAL)
MEMBER (JUDICIAL)

8.12.93

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