CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.Nos.226/2000, 228/2000
& 260/2000

Friday this the 15th day of February,2002.

CORAM:
HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE SHRI T.N.T.NAYAR,ADMINISTRATIVE MEMBER

O.A.No.226/2000

1. P.K.Sobhana,
Full-time Sweeper,
O/o The Senior Superintendent of Railway Mail,
RMS 'EK' Division, Cochin-782011.

2. O.Jagadamma,
Full-time Sweeper, Head Record Office,
R.M.S.,'EK' Division,
Cochin-682 016.

3. U.R.Rajamma,
Full-time Sweeper, Head Record Office,R.M.S.'EK' Division,
Cochin-682 016.

4. T.G.Radhamani,
Full-time Sweeper, Kochi International Mail Centre,
Cochin-682 015.

.. Applicants

(By Advocate Sri O.V.Radhakrishnan)

vs.

1. Head Record Officer,
R.M.S,'EK' Division, Ernakulam,Cochin-682 016.

2. Senior Superintendent of Railway Mail
R.M.S, 'EK' Division,Ernakulam, Cochin-682 011.

3. Director General of Post,
Dak Bhavan, Sansad Marg, New Delhi.

4. Union of India,
represented by its Secretary, Ministry of Communications,
Sansad Marg, New Delhi.

(By Advocate Sri M.R.Suresh, ACGSC)

O.A.No.228/2000

M.R.Krishnakutty,
Temporary Status Mail Man,
Sub Record Office,
Railway Mail Service Office,
Kottayam.

.. Applicant

(By Advocate Sri Siby J.Monippally)

vs.

1. Union of India represented by its Secretary, Ministry of Communications, New Delhi.

2. The Chief Post Master General, Trivandrum.

3. The Senior Superintendent, Railway Mail Service, Trivandrum Division, Trivandrum. .. Respondents

(By Advocate Sri M.R.Suresh, ACGSC)

O.A.No.260/2000

G.Savithri, Casual Labour, Office of the Senior Superintendent of Railway Mail 'TV' Division, Trivandrum-33. .. Applicant

(By Advocate Sri G.Sasidharan Chempazhanthiyil)

vs.

1. Senior Superintendent, Railway Mail Service,TV Division, Trivandrum.

2. Chief Postmaster General, Kerala Circle, Trivandrum.

3. Director General, Postal Department, New Delhi.

4. Union of India rep. by its Secretary, Ministry of Communications, New Delhi. .. Respondents

(By Advocate Sri T.A.Unnikrishnan,ACGSC)

The Application having been heard on 13.2.2002, the Tribunal on the same day delivered the following:-

ORDER

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

The facts of the cases are similar and the question of law being identical, these three cases are being heard and disposed of by a common order.

2. The facts of the cases are narrated in brief as follows :-

OA 226/2000

3. The applicants 1-4 commenced service as part-time employees in the office of the RMS, EK Division, Ernakulam and HRO, Ernakulam. They were made full time casual labourers w.e.f. 1.7.1998 by order dated 22.1.99(A6). Thereafter, by order dated 11.8.1999(A7), the 1st applicant was granted temporary status w.e.f. 1.7.1999 and by order dated 13.7.1999(A8) applicants 2-4 were granted temporary status w.e.f. 1.7.1999. Subsequently, show cause notices A9, A14, A19, A24 were issued to the applicants 1-4 respectively stating that temporary status granted to them were erroneous and to show cause why the same should not be cancelled. Applicants made representations. The representations were considered and the 2nd respondent by impugned orders A13, A18, A23 and A28 cancelling the temporary status granted by A7 and A8 orders. The applicants requested for a copy of the letter based on which the show cause notices were issued, but the request was turned down on the basis of the D.O. letter dated 14.10.1999(A29). Aggrieved by this, the applicants have filed this application seeking to set aside the impugned

orders and for a declaration that the applicants are legally entitled for conferment of temporary status under Annexure A32 scheme of 1993.

OA 228/2000

4. The applicant who commenced service as part-time casual labourer under the Sub Record office, RMS, Kottayam w.e.f. 26.7.1984 was made full time casual labourer w.e.f. 5.8.1998 by an order A1 dated 5.6.1998. By order A2 dated 30.8.1999 issued by the Senior Superintendent, RMS Thiruvananthapuram, the applicant was granted temporary status of Group D w.e.f. 25.4.1999. While he was working with temporary status, notice dated 11.1.2000(A3) was served on him stating that the temporary status was erroneously granted to him and asking him to explain why the temporary status erroneously granted to him should not be withdrawn. The applicant submitted a representation A4 against the proposed action. However, the impugned order A5 cancelling temporary status granted to the applicant was issued. Aggrieved by this the applicant has filed this application seeking to set aside the impugned order A5 and to declare that the applicant is entitled to get temporary status in accordance with the scheme formulated by order of the Government of India dated 12.4.1991.

OA 260/2000

5. The applicant commenced service as part time sweeper in the office of the 1st respondent on 1.9.1990. The applicant

approached this Tribunal filing OA 1422/96 claiming that she was entitled to the benefits of full time casual labourer as she was being used as sweeper. The OA was disposed of by order dated 22.7.1998, directing the Chief Postmaster General, Kerala Circle to have the work load of the applicant assessed by a competent officer and thereafter to take a decision on the claim of the applicant for wages of 8 hours duty. On the basis of the above direction, after a work study, the applicant was made full time casual labourer w.e.f. 10.1.1998 by order dated 14.12.1998(A2). Thereafter the applicant was granted temporary status of Group D with all consequential benefits w.e.f. 19.11.1998 by A3 order dated 30.12.1998. While so, the applicant was served with a show cause notice dated 6.1.2000(A4) proposing to cancel the temporary status granted to her stating that the same was granted erroneously. The applicant submitted a representation (A6) dated 17.1.2000 objecting the proposed action. However, the impugned order A7 has been issued on 31.1.2000 cancelling the temporary status granted to the applicant. Aggrieved by this, the applicant has filed this application.

6. The respondents in the applications resist the claim of the applicants and seek to justify the impugned orders on the ground that all the applicants in these cases having become full time casual labourers in 1997 and therefore, they are not

entitled to the temporary status under the existing scheme because under the scheme, casual labourers who were in position as on 1.9.93 alone were entitled to the benefit.

7. We have heard the learned counsel for the applicants Shri O.V. Radhakrishnan, Mr. Sasidharan Chempazhanthiyil, Shri Siby J. Monippally and Shri T.C. Govindaswamy and the learned counsel for the respondents Shri. M.R. Suresh, Shri T.A. Unnikrishnan and Shri P. Jacob Varghese. The question that calls for an answer in these cases is whether the respondents were justified in cancelling the orders granting temporary status to these applicants for the reason that they became full time casual labourers only in the year 1998 and 1999 and therefore they were not casual labourers in position as on 1.9.93 . This issue was considered and settled by a Full Bench of the Central Administrative Tribunal sitting in Chandigarh in OA 1146-HP-96 by judgement dated 3.10.2001. The only difference on facts is that the applicants in these cases are casual labourers of the Postal Department,while the applicants before the Chandigarh Bench of the Tribunal in OA 1146-HP-96 were casual labourers of the Telecom Department. That difference is immaterial because the scheme for grant of temporary status and regularisation in the Postal Department as well as in the Telecom Department were evolved as per the directions of the Apex Court in its ruling in the case of Daily Rated Casual Labour, employed under P&T Department through Bhartiya Dak Tar Mazdoor Manch Vs. Union of India and Others, AIR 1987 SC 2342. At that time the Posts and Telegraphs Department was only one Department, but subsequently it became bifurcated in to Postal Department and Telecom

Department. The Telecom Department evolved a scheme on 17.10.1990 which provided for grant of temporary status to the casual labourers of Telecom Department who were currently employed w.e.f. 1.10.1989. Similarly, the Postal Department evolved a scheme identical in terms on 12.4.1991 for grant of temporary status to casual labourers in position as on 29.11.1989. The scheme was subsequently made available to the casual labourers who are in service upto 1.9.1993. When the Department of Personnel and Training evolved a scheme the Casual Labourers(Grant of Temporary Status and Regularisation) w.e.f. 1.9.1993, the same was not extended to the employees of Department of Telecommunication and Department of Posts as these Departments had already evolved their own schemes. Therefore,although the applicants in these cases are casual labourers of Postal Department, the decision by the Full Bench of the Tribunal in OA 1146-HP-96 decided on 3.10.12001 is equally applicable to the employees in the Postal Department also as identical schemes were introduced in the Postal Department as also Telecom Department pursuant to the direction of the Apex Court while these Departments constituted only one Department.

8. The Full Bench after considering the various provisions of the scheme ultimately held :

> "Casual Labourers(Grant of Temporary Status and Regularisation) Scheme of the Department of Telecommunications, 1989" is not a one time scheme

applicable to such casual labourers who were employed prior to and continued to be employed as on 1.10.1989 but the same is a continuous scheme which will be applicable also to casual labourers who are employed thereafter."

9. Following the dictum of the Full Bench that the scheme for grant of temporary status and regularisation in the Telecom Department is an on-going scheme, we hold that scheme for grant of temporary status and regularisation in the Postal Department being identical in nature is also an on-going scheme and that the impugned orders cancelling the temporary status granted to the applicants on the ground that the applicants became full time casual labourers only after 1.9.93 is unjustified and illegal.

10. In the result, all these Original Applications are allowed. The impugned orders in these cases by which temporary status granted to the applicants are set aside declaring that the applicants are entitled to the grant of temporary status under the scheme which is not a one time dispensation, but an on-going scheme. No costs.

Dated the 15th February, 2002.

Sd/-
(T.N.T. NAYAR)
ADMINISTRATIVE MEMBER

Sd/-
(A.V. HARIDASAN)
VICE CHAIRMAN

oph

A P P E N D I X

O.A 225/2000

Applicants' Annexures:

1. A-1: True copy of the Memo No.C/Ca/Do dt.9-10-86 of the 2nd respondent.

2. A-2: True copy of the letter No.B-155 dt. 1-4-97 of the 2nd respondent.

3. A-3: True copy of the Memo No.PT/Regtt dt.9-5-84 of the 1st respondent.

4. A-4: True copy of the Memo No.PT/Regtt dt.16-3-89 of the 1st respondent.

5. A-5: True copy of the Memo No.HRO/PT/Aptt dt. 20-2-95 of the 1st respondent.

6. A-6: True copy of the Memo No.HRO/PT/Aptt dt.22-1-99 of the 1st respondent.

7. A-7: True copy of the Memo No.C-137 dt.11-8-99 of the 2nd respondent.

8. A-8: True copy of the Memo No.HRO/PT/Aptt dt.13-7-99 of the 1st respondent.

9. A-9: True copy of the Memo No.C-137 dt.3-1-2000 of the 2nd respondent.

10. A-10: True copy of the representation dt.20-1-2000 submitted by the 1st applicant before the 2nd respondent.

11. A-11: True copy of the Memo No.C-137 dated 27-1-2000 of the 2nd respondent.

12. A-12: True copy of the representation dt.2.2.2000 submitted by the 1st applicant before the 2nd respondent.

13. A-13: True copy of the Memo No.C-13 dt.14-2-2000 of the 2nd respondent.

14. A-14: True copy of the Memo No.HRO/PT/Appt dt.5-1-2000 of the 1st respondent.

15. A-15: True copy of the representation dt.18-1-2000 submitted by the 2nd applicant before the 1st respondent.

16. A-16: True copy of the Letter No.PF/GJ dt.24-1-2000 of the 1st respondent.

17. A-17: True copy of the representation dt.31.1.2000 submitted by the 2nd applicant before the 1st applicant.

18. A-18: True copy of the Memo No.HRO/PT/Appt dated 22.2.2000 of the 1st respondent.

19. A-19: True copy of the Memo No.HRO/PT/Appt dt.5.1.2000 of the 1st respondent.

20. A-20: True copy of the representation dt.24-1-2000 submitted by the 3rd applicant before the 1st respondent.

21. A-21: True copy of the Letter No.PF/UR.R dt.27-01-2000 of the 1st respondent.

22. A-22: True copy of the representation dt.3-2-2000 submitted by the 3rd applicant before the 1st respondent.

23. A-23: True copy of the Memo No.HRO/PT/Appt dt.22.2.2000 of the 1st respondent.

24. A-24: True copy of the Memo No.HRO/PT/Appt dt.5.1.2000 of the 1st respondent.

25. A-25: True copy of the representation dt.24-1-2000 submitted by the 4th applicant before the 1st respondent.

26. A-26: True copy of the Letter No.PF/TGR dt.27-1-2000 of the 1st respondent.

27. A-27: True copy of the representation dt.3-2-2000 submitted by the 4th applicant before the 1st respondent.

28. A-28: True copy of the Memo No.HRO/PT/Appt dt.22.2.2000 of the 1st respondent.

29. A-29: True copy of the Letter No.66-31/99-SPB dt.17-12-99 of the 4th respondent.

30. A-30: True copy of the LetterNo.45-95/87-SPB.I dt.12-4-91 of the Department of Posts.

31. A-31: True copy of the Letter No.66-52/92-SPB.I dt.1-11-95 as amended by letter dt.8-11-95 of the Department of Posts.

32. A-32: True copy of the O.M.No.511016/90/2/90-(Estt)(C) dt.10-9-93 of the Government of India.

Respondents' Annexures:

1. R-1: Copy of D.G.Post letter No.45-95/87-SPB dt.12-4-91 by Asst. Directors Sub. Casual labourers (Grant of temporary status and regularisation) Scheme.

2. R-2: Govt. of India, Ministry of Communications Dept. of Post Letter No.66-52, 92-SPB dt.1-11-95 and dt.8-11-95.

3. R-3: Copy of the extract of judgement 1998 SCC(L&S) 1191 date of judgement 19-11-1997.

O.A 228/2000

Applicant's Annexures:

1. A-1: Photostat copy of the order No.SRO 1392-98 dt.5-6-98.

2. A-2: Photostat copy of the order No.BII/I-CL dt.30-8-1999 of the Senior Superintendent, Department of Posts, India, TMS 'TV' Division, Trivandrum.

3. A-3: Photostat copy of the Show Cause Notice No.B II/I-TS dt.11.1.2000 of the 3rd respondent.

4. A-4: True copy of the reply of the applicant dt.31-1-2000 addressed to the 3rd respondent.

5. A-5: Photostat copy of the order No.BII/I-TS dt.7-2-2000 issued by 3rd respondent.

6. A-6: Photostat copy of the Scheme No.45-95/87-SPB I dt.12-4-91 of the 1st respondent.

Respondents' Annexures:

1. R-1: Copy of the C.A.T order in O.A 778/99 dt.17-8-1999.

2. R-2: Copy of the circular No.Rectt/27-1/IV dt. at TVM-33 the 17-11-95 (as per Directorate's Letter No.66-52/92 SPBI dt.1.11.95).

3. R-3: Copy of the Letter No.Rectt/27-1/IV dated at Tvm-33 the 22-11-95 (Grant of temporary status and regularisation scheme corrigendum to Letter dt.1-11-95)

O.A 260/2000

Applicant's Annexures:

1. A-1: True copy of the order of the Hon'ble Tribunal in OA 1422/96 dtd.22.7.98.

2. A-2: True copy of the order No.Vig/16-3/97 dtd.14.12.98 issued by the 2nd respondent.

3. A-3: True copy of the Memo No.PF/G.Savithri dtd.30-12-98 issued by the 1st respondent.

4. A-4: True copy of the order No.Vig/16-3/97 dtd.6-1-2000 of the 2nd respondent.

5. A-5: True copy of the ltr.No.PF/G.Savithri dtd.10-1-2000 issued by the 1st respondent.

6. A-6: True copy of the ltr.dtd.17.1.2000 to the 1st respondent.

7. A-7: True copy of the Memo No.PF/G.Savithri dtd.31.1.2000 by the 1st respondent.

8. A-8: True copy of the ltd.No.PF/G.Savithri dtd.3-9-96 issued by the 1st respondent.

9. A-9: True copy of the Recruitment Rule 1970 of the Indian Post & Telegraph (Group D) posts.

10. A-10: True copy of the Seniority list of Temp. Status Casual Labourers.

11. A-11: True copy of letter DGP&T No.7-19/78-PE.I dt.7-2-1981, of the Director General, P&T Department.

12. A-12: True copy of the Scheme of Temp. Status effective from 1.9.93 (relevant portion) No.OM 51016/90/2/90(eSTT.)(c).

Respondents' Annexures:

1. R-1(A): Order dt.14-10-1996 in OA No.355 of 1996.

2. R-1(B): Order dt.30.1.97 in CPC No.6/97 in OA No.355/96.

****

npp
5-3-02

CERTIFIED TRUE COPY

Date .....

Deputy Registrar