

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH NEW BOMBAY

Transferred Application No. 332/86

Shri Sampat Haribhau Rasal,
Survey No.133, Parvati Payatha,
Pune-30.

Shri Kotwal S.R.,
Shedgewadi,
Pune-30.

Shri Khole S.V.,
Vishnupura, Ravivar Peth,
H.No. 151/52,
SonyaMaruti Chowk,
Pune-2.

Shri Suresh Pralhad Kale,
C/o. Pendse T.D.,
1388 Shukrawar Peth, Dr.Gokhale's Wada,
Pune-2.

Shri Ashok Rambhau More,
Type Room No. 5/6, Range Hill,
Pune-20.

Shri R.H. Mujawar,
12, Shivaji Nagar,
Pune-5.

Shri Shrirang Baburao Gadre,
Survey No. 133, Ambil Odha Colony,
Pune-30.

Shri Kondiba Eknath Chaudhari,
650 Shirke Wada, Shukrawar Peth,
Pune-2.

Shri Dilip Dattatrey Khandve,
993, Shukrawar Peth,
Pune-2.

Shri S.L. Khan,
Mathuram Agarwal Chawl,
S.No.8, Mohannagar, Chinchwad,
Pune-19.

Shri Lahu Laxman Ghare,
1037, Nana Peth, Opp. Padmaji Gate,
Pune-2.

Anant Sadashiv Polekar,
Mahatma Fule Vasahat,
S.No.93, Laxminagar,
Pune-9.

Shri Hanumant Kisan Jagtap,
1059, Ravivar Peth,
Pune-2.

.... Applicant.

V/s.

1. Senior Superintendent of Post Offices,
Pune City West Divisions,
Lokmanyagar,
Pune-30.
2. Regional Director,
Postal Services,
Pune Division,
Pune-1.
3. P.M.G.,
Recruitment Officer,
P.M.G.,
Bombay-1.
4. Union of India, through
Secretary to Government
Post & Telephone Department,
New Delhi.

.... Respondents.

Coram: Hon'ble Member(A) J G Rajadhyaksha
Hon'ble Member(J) M B Mujumdar

Appearance :

Mr. N.G. Divakar
Advocate
for the Applicants

Mr. S.R. Atre,
(For Mr. P.M. Pradhan)
Advocate
for the Respondents.

ORAL JUDGMENT

DATED : 30.9.1987

(PER: M.B. Mujumdar, Member(J))

Thirteen applicants (Original Plaintiffs) had filed regular Civil Suit No. 2187/82 in the Court of the 5th Joint Civil Judge, Senior Division, Pune and the same is transferred to this Tribunal under Section 19 of the Administrative Tribunals Act, 1985.

2. Mr. Divakar, the Learned Advocate, pressed the case as regards three applicants only viz. Sampat Haribhau Rasal, (Applicant No.1); Shrirang Baburao Gadre (Applicant No.7); and Kondiba Eknath Chaudhari (Applicant No.8). He rightly did not press the case regarding the other applicants because they are not entitled to any relief according to any rules or instructions.

3. On our directions, respondents have submitted a chart showing the number of days for which the applicants had worked with them during the years 1979 to 1982. From the chart annexed to the Additional written statement filed by the respondents, we find that applicant no. 1 Sampat Haribhau Rasal had worked as Outsider Postman in 1980 for 84 days, in 1981 for 243 days and in 1982 for 231 days. Applicant No. 7, S.B. Gadre had similarly worked for 247 days in 1980, 278 days in 1981 and 275 days in 1982. Applicant No. 8 K.E. Chaudhari had ~~se~~ worked for 298 days in 1980, 258 days in 1981 and 289 days in 1982. It may be mentioned that all of them had registered their names with the Employment Exchange at Pune. We may further point out that Applicant No. 1 S.H. Rasal has passed the 9th Standard examination while Applicant No. 8 K.E. Chaudhari is B.A.

4. We may add that in reply to our ^{queries} ~~queries~~ Applicant No. 7 clarified that he had appeared for the S.S.C. Examination but had failed, while Applicant No. 8 fairly clarified that he has passed in all papers of the B.A. Examination except one, ~~and that~~ Applicant no. 7 Gadre is a member of the Scheduled Caste being a Hindu Chambhar.

5. In view of the number of days for which the applicants had worked during 1979 to 1982 Mr. Divakar submitted that applicant nos. 1, 7 and 8 may be absorbed in any Group 'D' non-test posts.

6. In this respect he relied on the instructions given in a letter dated 12.1.1981 addressed to all supervisory officers in the Maharashtra Circle by the Post Master General. According to the instructions, non-test category Group 'D' staff consists of Watermen, Watchmen, Chowkidars, Night Guards, Mazdoors, Sweepers, Farash, etc. ^{and} Group 'D' test category consists of Packers, Mail Peons, Telegraph Messengers, Peons, etc.

7. The instructions in the letter show that casual labourers are appointed in the Department when there is work of casual nature. They ^{are} all eligible for subsequent appointment as Group 'D' officials, provided,

(i) they have put in two years service as casual labourers (240 days in each of two years) from the date of registration of their names in the Employment Exchange, and (iii) they fulfil other conditions for recruitment in Group 'D' Category. It is clarified that these instructions were applicable to the candidates who were and who would be appointed after 30th November, 1983, the decision was a little different and the casual labourers who had put in two years service (240 days in each of the two years) were eligible for recruitment in Class-IV cadre without nomination from the Employment Exchange. We are referring to these instructions because though the concerned applicants had registered their names with the Employment Exchange they were not sponsored by the Employment Exchange.

However, prior to 30th Nov. 1983

8. It is true that the applicants in question were not engaged as casual labourers but they were engaged as Outsider Postmen. Applicant No. 7 Gadre and No. 8 Chaudhari have admittedly worked for more than 240 days in the years 1980, 1981 and 1982. As regards applicant no. 1 Rasal, he had worked for 243 days in 1981; 231 days in 1982. However, according to the certificate produced by him from the Deputy Post Master of the S.P. College Post Office, at Pune, he had worked for 282 days in 1981 and for 259 days in 1982. We find no reason to disbelieve or discard that certificate. We, therefore, hold that the applicant no. 1, 7 and 8 have worked for more than 240 days in two years as required by the instructions. We are therefore of the view that since casual labourers are eligible to be absorbed, if they work for 240 days in each year for two years, if they fulfil certain other conditions, there is no reason why the applicants Nos. 1, 7 and 8 who had worked as outsider postmen and are perhaps educationally better qualified than those who are taken up as Casual Labourers should not be held eligible for being absorbed, if they fulfil the same conditions.

9. In view of the above circumstances, though the applicant nos. 1, 7 and 8 are not entitled to the reliefs which they have claimed in the

plaint, they are certainly entitled to the relief which we are now granting.

10. With this we pass the following order :

ORDER

1. The Respondents are directed to absorb Applicant No.1 S.H. Rasal; Applicant No. 7 S.B. Gadre and Applicant No.8 K.E. Chaudhari, without insisting upon any test, to any of the Group 'D' non-test posts.
2. The respondents shall implement the above directions within three months from the date of receipt of a copy of this order, even by creating supernumerary post, if necessary.
3. These applicants will be entitled to their wages from the *dates* on which they would be appointed.
4. The case of other applicants (i.e. other than applicants nos. 1,7 and 8) is dismissed.
5. Parties to bear their own costs.

Miscellaneous Petition No. 229/1987, is disposed of.

(J G Rajadhyaksha)
Member (A)

(M B Mujumdar)
Member (J)