

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

1. ORIGINAL APPLICATION NO.496/1999.
2. ORIGINAL APPLICATION NO.499/1999.

Tuesday this the 27th day of March, 2001.

Coram: Hon'ble Shri B.N.Bahadur, Member (A).

1. Original Application No.496/1999.

Santosh Govind Gode,
2/15, Ravikiran Chawl,
Near Hanuman Temple,
Bhandup (West),
Mumbai - 400 078.

...Applicant.

2. Original Application No.499/1999.

Anand Ramappa Patoli,
Nawa Gaon, Azad Society,
Near Sai Baba Mandir,
Laxmi Mhatre Road,
Dahisar,
Mumbai - 400 068.
(By Advocate Shri S.P.Kulkarni in
both OAs 496 and 499/1999)

...Applicant.

Vs.

(a) Union of India through

1. Senior Superintendent of Post Office,
Mumbai City North, Postal Division,
Azad Nagar Post Office Building,
Mumbai - 400 053.

2. Chief Postmaster General,
Maharashtra Circle, Old G.P.O. Building,
Near C.S.T. Central Railway,
G.P.O. Fort,
Mumbai - 400 001.

...Respondents.

(By Advocate Shri V.S.Masurkar
in both OAs 496 and 499/1999)

: O R D E R :

{Per Shri B.N.Bahadur, Member (A)}

The two OAs bearing numbers 496/99 and 499/99 have been
taken together for hearing and disposal, since these OAs are

similar/interrelated. To cite the facts in the OA 496/99, the Applicant Shri Santosh G.Gode comes up to the Tribunal seeking the relief, in substance that the termination of the applicant on 1.1.1997/1.1.1998/15.1.1999 is illegal. The Applicant seeks the quashing and setting aside of order dt. 14.1.1999 (A-1a) and also seeks a direction to the Respondents to allow him to join as casual labourer in Group 'D'. Directions for consequential reliefs are also sought.

2. Applicant states further in his OA that he was working as Casual Labourer Group 'D' in various Post Offices between the years 1990 and 1997 for the number of days as detailed out in para 4.1 of the application. He was engaged as "outsider" for 8 hours a day and was entitled, he claims, to be of conferred with temporary status, as soon as he completed 240 days service which he did on 31.12.1995. Temporary status, however, was not conferred on him.

3. The Applicant further refers to the scheme of Respondents for regularisation of Casual Labour (dt. 12.4.1999) and asserts that he is clearly entitled to the benefits of this scheme on the basis of the facts in his case. It is further averred that his the contention that he was merely working as Coolie is wrong.

4. The Respondents in the case have filed a reply, resisting the claims of the Applicants, and stating that various Sub-Postmasters had directly engaged Coolies to cope up with the seasonal work that comes about due to festivals etc. to assist Group 'D' officials in postal work. It is contended that sometimes such Coolies are termed as Casual Labours, but the term

"casual" only denotes their work being of casual nature. Also the present person is engaged as a Coolie and has not completed 240 days in any one particular office. It is stated that absorption of Casual Labour was done as a one time measure in 1993 and the applicants were not considered since they were obviously not eligible. It is also mentioned that according to Recruitment Rules of Group 'D' officials in Respondent's Department, the first preference would be given to Extra Departmental employees and the employment of persons like the applicants would be unjust to Extra Departmental employees.

5. I have heard Learned Counsels on both sides. Counsel for Applicants Shri Kulkarni argued his case with reference to the Annexures filed with his applications. He stated that the order of discontinuation itself calls him a Casual Labour. His services have been certified as at paras 33 and 35 and temporary status due to him was not provided. The instructions at R-1 R-2 were also referred to for support. The Counsel for Respondents depended on the written statement of the Respondents and made the point that the Applicant was not eligible in view of the reasons cited in the written statement.

6. In the second case, the Applicant Shri A.R.Patole (499/99) also states that he has been working as outsider Postman in various Post Offices in fact from the year 1977 to the year 1987 as detailed in para 4.3 of his case. Further details have been described and the relief is sought for the quashing and

setting aside of letter dt. 21.4.1998 denying him absorption and a direction sought that applicant be held as entitled for absorption in the Postal Department as Group 'D' or in non-test or any other category by relaxation of age limit, educational qualifications etc. Thus, the grievance of non-absorption and non-grant of temporary status are similar; this case was also argued by Learned Counsels on both sides mainly based on the written pleadings and the annexures. In this case also the assertion by the Respondents is that Coolies are very often employed by various Post Offices. Here, in fact, certain facts made by the applicant by way of details of employment are resisted by the Respondents stating that no proof has been putforth e.g. regarding his very employment in 1977. It is also stated that the applicant was not fulfilling eligibility conditions as per Recruitment Rules, in terms age and educational qualifications.

7. While arguing these cases, the Learned Counsel for Respondents had also made point that various postmasters who keep details of such local employments have not been arrayed as Respondents. Also that the OAs have been filed in the year 1999 and are thus hit by delay and laches.

8. The first point that comes up for consideration is whether it has been established by the Applicants that they are eligible to be treated as Casual Labour in terms of the scheme. The contention of the Respondents is that they were merely working as Coolies in stop-gap arrangements and that the employment was sporadic in nature. What is unfortunately true

is although there is considerable correspondence/replies about service by both applicants, there is no order or other concrete evidence of any employment in any casual category. It is also clear that the employment of both persons ^{was} in different Post Offices in the City. My attention is also drawn to the detailed instructions contained in the document at Annexure R-2 in OA 496/99 where it is stated that 240 days service is required in "each of the two preceding years". Even here the contention of Respondents that service by applicants is in different Post Offices will need to hold water in the absence of any Rule/Provision to the contrary brought to our notice.

9. Further in the case of applicant in OA 499/99, the question of qualification is also involved, admittedly and it is difficult under the circumstances to overlook this also.

10. The contention about respective Post Masters not being arrayed is not understandable. It is not open for a directly senior supervisory officers to take such a stand in an OA. If a senior is arrayed as a party in an OA and records are maintained in a lower office, it is upto them to get those records from an office which is clearly under their control.

11. Nevertheless, in a situation as discussed above the Tribunal is surely constrained in providing any relief by judicial determination. There is also the assertion that the cut off year is 1993, even if the scheme for Casual Labour is applicable to them.

12. No relief as claimed can therefore be provided to the Applicants by judicial determination in view of the constraints

described. The OA is therefore disposed of accordingly.

13. However, I would like to afford an opportunity, which I hereby do, to the applicants to make a Representation to the PMG who could assess what can be done in such cases within the rules/on merits. The disposal of this OA will not prevent the Respondents from giving any relief they deem fit. But, no directions are being given. OA stands disposed of accordingly. No costs.

(B.N.BAHADUR)
MEMBER(A)

27/03/01

B.