

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO: 550/99

WEDNESDAY the 18th day of DECEMBER 2002

CORAM: Hon'ble Shri B.N. Bahadur - Member (A)
Hon'ble Shri S.L. Jain - Member (J)

Kum. Rajana Sahadeo Gawad
Residing at P.O. Chikhale
Taluka - Dahanu, Dist. Thane. ...Applicant.

By Advocate Shri S.P.Kulkarni.

V/s

1. Union of India through
Superintendent of Post Office
Thane West Postal Division
At P.O. Mira Road,
(Mira Road Post Office Building)
Taluka - Vasai.
2. The Director of Postal Services
(M.R) Office of the Chief Postmaster
General, Maharashtra Circle
Old GPO Building, 2nd floor
Near C.S.T. Central Railway
Termunus, Fort, Mumbai GPO
3. Sou. Shashikala Hira Kini
(Put off) then E.D.B.P.M. Chikhle
Chikhale B.O. AT P.O. Chikhale,
E.D.B.O. Via-Dahanu Road, S.O.
Tal. Palghar. ...Respondents

By Advocate Shri V.S. Masurkar

ORDER (ORAL)

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

We have heard the learned counsel for both sides. At the outset Shri Kulkarni states that he presses only para 8 (d) as under:

Direct Respondents to place the name of the applicant on the Waiting list of A.S.P. Palghar, Sub-Division for 2 years and consider her for next available vacancy of E.D.A. as per Rules

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2. The core facts of the case are that the applicant had been appointed provisionally after due notification as respondent No. 3 was put off duty. Respondent No.3 after due enquiry was re-instated as a result of which the services of the applicant was dispensed with. It is also an admitted fact that the applicant was appointed provisionally after following the procedure envisaged i.e. by issue of local notification by Respondents. Directions are being sought from us to the respondents to keep the applicant in waiting list. Learned counsel Shri Kulkarni cited two case laws, The first being the orders made in OA 1647/98 decided on 4.3.1999 of Ernakulam Bench of this Tribunal and the second being the case of Shri V. Kumar and others V/s Union of India and others. (1994) 27 ATC 346.

3. We have gone through the judgements carefully with the assistance of both the learned counsel. In the first case decided by Ernakulam Bench, the applicant therein was selected by regular procedure. The issue is whether the service of three years required as per Rule is to be continuous service. Here the ratio is not settled that even the provisional appointee so appointed without regular procedure, he will have the right to be kept on waiting list. Hence Ernakulam Bench decision does not help the applicant.

4. We have also seen the judgement of V. Kumar and others (supra) and in fact found the answer in para 16 of the judgement, where it is clearly described that provisional appointment is.

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envisaged as one. Where the appointment is made on regular basis either by getting names from Employment Exchange or through local notification, Only to such persons are certain rights provided by the Tribunal. In V. Kumar's case the issue was of rights between provisional appointee and substitutes.

5. The principle which is important to us for providing the relief at 8(d) is whether in fact the procedure prescribed was followed. Since here admittedly the procedure is followed, prayer at 8(d) deserves to be allowed. In the consequence the OA is disposed of with the following order.

O R D E R

Prayer at para 8(d) of OA is allowed. All other prayers are rejected. No costs.

S.L. Jain
(S.L. Jain)
Member (J)

NS

B.N. Bahadur

(B.N. Bahadur)
Member (A)