

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

ORIGINAL APPLICATION NO.524/2000

TUESDAY, THE 16TH DAY OF JULY, 2002.

Coram : Hon'ble Shri Justice Birendra Dikshit, Vice Chairman  
Hon'ble Shri B.N. Bahadur, Member (A).

Shri Machindra,  
S/o. Sampatrao Mhaske. .... Applicant.

( By Advocate Shri S.P. Kulkarni )

: Versus

1. The Postmaster General,  
Maharashtra Circle,  
Cantonment, Aurangabad.
2. Senior Superintendent of Post  
Offices, Aurangabad.
3. Sub-Postmaster,  
Kranti Chowk,  
Aurangabad. .... Respondents.

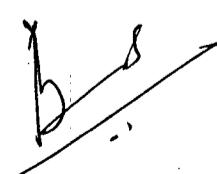
( By Advocate Shri V.S. Masurkar ).

Order (Oral)  
{ Per : Hon'ble Shri B.N. Bahadur, Member (A) }

The applicant has come up to this Tribunal  
seeking the reliefs as follows:-

- "(a) The Respondent No.1,2 and 3 be directed to continue the services of the applicant as a outsider or extra-Departmental agent at Aurangabad with immediate effect and oblige.
- (b) The Respondent No.2 and 3 be directed to regularise the services of the applicant as a outsider or extra-Departmental agent or vacant post in Group 'D' employees at Aurangabad with immediate effect and oblige.
- (c) Any other appropriate relief to which the the applicant found entitled be granted, and for this act of kindness and

..2.



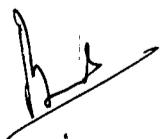
kindness, the applicant as in duty bound shall ever pray."

2. We have heard both the Learned Counsel and are disposing of this O.A. at the admission stage itself. The stand taken by Learned Counsel Shri S.P. Kulkarni who argued the case, for Shri Dhuri, is based on detailed information and facts provided at page 50 and 51 which form part of M.P. filed by applicant. (M.P. No.433/2002) The applicant who has been working as an outsider Postman has worked for some 253 days in 1996 and some 258 day in the calendar year 1997 according to this information. On this basis, it is his contention that relief has to be provided in regularising the appointment of applicant. He also pointed out that the Applicant's services were orally terminated on 01.07.98. This point has been set out in the O.A. by the applicant at Para 1.

3. Learned Counsel has also argued that some similarly placed persons have been provided the relief that he seeks in the O.A. and the Full Bench judgment in the matter of G.Manjunath & Ors. Vs. The Postmaster General & Ors in OA NO. 1155 to 1168/89 decided on 19.4.1991 is squarely applicable here.

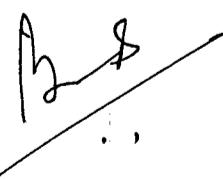
4. Learned Counsel for Respondents Shri V.S. Masurkar has stated that, in the first place the facts are set out only in the M.P. and not in O.A., and that the case that applicants's counsel now seeks to make out in oral arguments is totally at variance with his case in O.A. Shri Masurkar took objection to the fact that the case is

...3.



sought to be made out in M.P. rather than in O.A. He also stated that he has the original records and as per this record it is clear that the applicant was only working in stop-gap arrangements, in leave vacancies i.e. when regular postmen went on leave. It is not the case of applicant's being a casual worker, as normally understood.

5. We have carefully gone through the arguments advanced by both sides and the papers cited before us specially those papers to which our attention is drawn. It is obvious that we will view facts and arguments with reference to relief sought in OA. There is strong force in the contention of the counsel for Respondents that the Applicant is seeking one kind of relief in the OA (para 8), and arguing for a different kind of relief orally. In para 8 the Applicant is seeking direction to continue his services as an outsider or ED Agent at Aurangabad. Perusal of the papers in the case to check up whether any substantiation exists in the claim of the applicant shows that there is none. The applicant indeed has not been able to make out the case in the OA by any cogent detail or arguments. In the absence of this, we have no reason not to believe the statement of facts made in written statement by the Respondents. Hence, the case really fails to establish any claim for the relief/s sought. The applicant also argued that what he argues for is really a lesser relief. By no stretch of imagination can

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this argument be accepted that he is merely asking for a "lesser relief".

6. In view of the above discussions, the OA deserves to fail and is hereby dismissed with no order as to costs. Since this OA fails on merit, we have not gone into the aspect of limitation. M.P. 433/2002 has become infreduous and disposed of as such.

B.N.Bahadur

(B.N. BAHADUR)  
MEMBER (A)

B.Dikshit

(BIRENDRA DIKSHIT)  
VICE CHAIRMAN

Gajan