

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 4/9/87

APPLICATION NOS. 481 to 485, 677 to 686 & 720/87(F)

Applicants

Smt Jayanthi & 15 Ors

To

1. Smt Jayanthi
D/o Shri K. Suresha
N.C. Road, Attavar
Mangalore
2. Smt Sharada
C/o Mahebale Kulal
John Fernandes Compound
Attavar, Babagudda
Mangalore
3. Smt Nandini
C/o Shri Chandrashekar
Anthony D'Souza Compound
Near Fire Railway Signal
Attavar, Bahugudda
Mangalore
4. Smt Swarna
D/o Shri K.C. Issac
Room No. 124, Block No. 25
New Police Lane
Mangalore
5. Smt Vijayalaxmi
D/o Shri K. Kesav
Goodshed Road
Mangalore
6. Shri K. Prahled Rao
Short Duty Sorting Assistant
Sub-Record Office
'Q' Division, Shimoga

Respondents

V/s The Secy, Dept of Posts & 6 Ors

7. Shri H.R. Eshwarappa
Short Duty Sorting Assistant
Sub-Record Office, 'Q' Division
Shimoga
8. Smt D.S. Nagaveni
Short Duty Sorting Assistant
Sub-Record Office, 'Q' Division
Shimoga
9. Shri Prakash Kumar H.D..
Short Duty Sorting Assistant
Sub-Record Office, 'Q' Division
Tumkur
10. Smt Gayathri Devi G.P.
Short Duty Sorting Assistant
Sub-Record Office, 'Q' Division
Tumkur
11. Shri H. Ranaiah
12. Shri Ramakrishnaiah
13. Shri B.K. Venkatramu
14. Shri N. Sivananda Murthy
15. Shri Raveesh
- (Sl Nos. 11 to 15 - C/o Shri M.R.
Advocate, 1074-1075, Banashankari
Bangalore - 560 050)
16. Shri Raviraja Bondanthila
Short Duty Sorting Assistant
Mangalore RMS
Mangalore - 575001

17. Smt Yamuna Sridharan
Advocate
24, Yamuna Bai Road
Kumara Cot Layout
Bangalore - 560 001
18. Shri M. Raghavendra Achar
Advocate
1074-1075, Banashankari I Stage
Bangalore - 560 050
19. The Director General
Posts & Telegraphs Dept
Sanchar Bhavan
New Delhi
20. The Secretary
Department of Posts
Sanchar Bhavan
New Delhi
21. The Post Master General
Karnataka Circle
Bangalore - 560 001
22. The Senior Post Master (Gazetted)
Head Post Office, Mangalore
23. The Superintendent
RMS 'Q' Division
Bangalore - 560 026
24. The Sub-Record Officer
RMS 'Q' Division
Shimoga
25. The Sub-Record Officer
RMS 'Q' Division
Tumkur
26. Shri M. Vasudeva Rao
Central Govt. Stng Counsel
High Court Buildings
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER passed by this Tribunal in
the above said applications on 25-8-87

Encl : As above


DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL BANGALORE

DATED THIS 25TH DAY OF AUGUST, 1987.

PRESENT:

Hon'ble Mr. Justice K.S. Puttaswamy,

.. Vice-Chairman.

And:

Hon'ble Mr. P. Srinivasan,

.. Member(A).

APPLICATIONS NOS. 481 TO 485, 677 TO 686 & 720 OF 1987.

1. Smt. Jayanthi,
D/o K. Suresha,
Aged about 31 years,
N.C. Road, Attavar, Mangalore. .. Applicant in A.No. 481/87.
2. Smt. Sharada,
C/o Mahabala Kulal,
Aged about 26 years, John Fernandes Compound,
Attavar, Babgudda, Mangalore. .. Applicant in A.No. 482/87.
3. Smt. Nandini,
C/o Chandrashekar,
Aged about 26 years,
Anthony D'Souza Compound,
Near Fire Railway Signal,
Attavar, Bahugudda,
Mangalore. .. Applicant in A.No. 483/87.
4. Smt. Swarna,
D/o K.C. Issac,
Aged about 23 years,
New Police Lane, Block No. 25,
Room No. 124, Mangalore. .. Applicant in A.No. 484/87.
5. Smt. Vijayalaxmi,
D/o K. Kesav, Goodshed Road,
Aged about 30 years,
Mangalore. .. Applicant in A.No. 485/87.
All are working as Short Duty Assistants,
Head Post Office, Mangalore.
6. K. Prahlad Rao,
S/o Sri Guddo Desai,
Aged about 30 years,
Short Duty Sorting Assistant,
Sub-Record Office,
'Q' Division, Shimoga. .. Applicant in A.No. 677/87.
7. H.R. Eshwarappa,
S/o Shri Rudrappa,
Aged about 26 years,
Short Duty Shorting Assistant,
Sub-Record Office, 'Q' Dn, Shimoga. .. Applicant in A.No. 678/87.



8. Smt.D.S.Nagaveni,
D/o D.shivalingappa,
Aged about 26 years,
Short Duty Sorting Asst.
Sub-record Office,
'Q' Dn.,Shimoga. .. Applicant in A.No.679/87.
9. Prakash Kumar,H.D.,
S/o Shri Doddaiiah H.,
Aged about 23 years,
Short Duty Sorting Asst.
Sub-REcord Office, 'Q' Dn.Tumkur. .. Applicant in A.No.680/87.
10. Smt. Gayathri Devi G.P.,
D/o Sri Puttanna,G.
Aged about 25 years,
Short Duty Shorting Asst.
Sub-Record Office, 'Q'Dn.,
Tumkur. .. Applicant in A.No.681/87.
11. H.Ranaiah,
S/o Honnaiah,
Aged about 25 years, .. Applicant in A.No.682/87.
12. Ramakrishnaiah,
S/o Late Ellajos,
Atged about 31 years. .. Applicant in A.No.683/87.
13. B.K.Venkatramu,
S/o B.Krishnappa,
Aged about 30 years, .. Applicant in A.No.684/87.
14. N.Sivnanda Murthy,
S/o Subba Gowda,
Aged about 25 years. .. Applicant in A.No.685/87.
15. Raveesh,
S/o late S.Nanjundappa,
Aged about 25 years, .. Applicant in A.No.686/87.
- Applicants Nos. 11 to 15 are working as
Short Duty Sorting Assistants both
at Arasikere and Mysore SRO, RMS Q Division,Mysore)
16. Raviraja Bondanthila,
S/o late E.Shrinivas Rao,
Short Duty Sorting Asst.
Mangalore RMS,
Mangalore-575 001. .. Applicant in A.No.720/87.
- (By Smt. Yamuna Sridharan for Applicants in A.Nos. 431 to 485
677 to 681 of 1987 and Sri M.R.Achar for Applicants in A.Nos.
682 to 686 and 720 of 1987)

v.

1. The Secretary,
Department of Posts,
Sanchar Bhavan, New Delhi.1. .. Respondent No.1
in A.Nos.677 to 681/87.
2. Director General, Posts and Telegraphs
Department, Sanchar Bhavan,
New Delhi. .. Respondent No.1 in
A.No.431 485/87 & Respondent No.2
in A.Nos. 682 to 686/87.



3. Post Master General,
Karnataka Circle, Bangalore.

.. Respondent-2 in A.Nos.481
to 485, 677 to 681 and 720/87.

4. Senior Post Master (Gazetted),
Head Post Office, Mangalore.

.. Respondent-3 in A.Nos.481
to 485/87.

5. The Superintendent,
RMS 'Q' Division,
Bangalore-26.

Respondent No.1 in A.No.682 to
686/87, Respondent-3 in A.No.677 to 681
of 1987 and Respondent-1 in A.720/87.

6. Sub-Record Officer,
RMS 'Q' Division, Shimoga.

..Respondent-4 in A.Nos.677 to 681/87.

7. Sub-Record Officer,
R.M.S.'Q' Division,
Tumkur.

.. Respondent-5 in A.Nos.677 to 681/87.

(By Sri M.Vasudevara Rao, Standing Counsel)

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These applications coming on for hearing this day, Hon'ble
Vice-Chairman made the following:

ORDER

As the questions that arise for determination in these cases
are common, we propose to dispose of them by a common order.

2. On different dates in 1931 and 1932, the applicants were
appointed as Short Duty Sorting Assistants ('SDSAs') in the Railway
Mail Service 'Q' Division ('RMS') of Karnataka Circle of the Postal
Department of Government. One of the appointment order issued
on 1-1-1932 to applicant in A.No.684 of 1987 adopted in all the other
cases reads thus:

INDIAN POSTS AND TELEGRAPHS DEPARTMENT

OFFICE OF THE SUPERINTENDENT RMS 'Q'

BANGALORE 560 020,

MEMO NO.B-I/5-A/81, Dated at Bangalore the 1-1-1982.

The following applicants who have applied for Short Duty
Sorting Assistants in this Division are selected as SDSAs and
they are hereby directed to undergo training at Places shown



against each at their own cost. They will be trained by the officers noted against them. They are appointed as SDSA subject to the following conditions:-

1. Their employment will be purely of casual nature.
2. This will not confer on you any right to claim regular and/or continuous employment in the Department.
3. You will not be engaged for more than 2 spells in a period of 24 hours, each spell of duty should not normally exceed three hours.
4. The Short duty staff are to be engaged to meet the peak hour traffic and leave/absence of any kind.
5. The short duty S.As (SDSA) will be paid wages at the rate of Rs.2/- per hour of duty performed.
6. They will not work more than 120 days at a stretch.

If you are agreeable to the above conditions you may report to the training officer noted against your name on 4-2-1982.

Accepting the terms and conditions set out herein, the applicants have undergone one week's short training without any stipend or pay, then joined service and were working from the respective dates of their appointments. Before making these appointments, there were no advertisements calling for applications, affording opportunity to all eligible candidates, and no tests or examinations were held for making regular selections as required by the Rules and orders in force for the said posts.

3. In its letter No.60-5/37-SPB-I dated 21-4-1987 Government of India in the Ministry of Communication (Department of Posts) instructed all heads of postal circles in the country as hereunder:

It has come to the notice of this Directorate that in certain Circles, outside persons, who have not even qualified for selection as RTP/Short Duty Staff, are being engaged on short duty in Postal/RMS offices. As there was no provision in the Short Duty/RTP Scheme to engage any such person on short duty, I am directed to request you to take necessary steps to follow the instructions contained in this office letter No.60-80/80-SPB-I dated 30-10-80 and subsequent orders on the subject and to ensure that the approved Short Duty/RTP Staff only are engaged on short duty in future. Since we have a large number of RTP candidates pensioners also should not be drafted for short duty as far as practicable.



In pursuance of this communication, the competent officers have terminated the services of the applicants on 20-7-1987 and 22-8-1987 by different but identical orders made against them. In these applications made under Section 19 of the Administrative Tribunals Act, 1985 the applicants have challenged the orders of terminations made against them.

4. Among others, the applicants have urged that their termination from the posts they held, while continuing to employ retired pensioners to do their very work, was contrary to the instructions of Government and was violative of Articles 14 and 16 of the Constitution.

5. In their common reply, the respondents have justified the terminations inter-alia on the ground that Government of India as a policy had decided to discontinue SDSAs who had not been appointed in conformity with the recruitment Rules and orders in force.

6. Sri M. Raghavendrachar and Smt. Yamuna Sridharan, learned Advocates appeared for the applicants. Sri M. Vasudeva Rao, learned Additional Central Government Standing Counsel appeared for the respondents.

7. While the learned counsel for the applicants contend that the termination of the applicants retaining the retired pensioners to do the work they were doing was illegal, the learned counsel for the respondents had sought to justify the termination of the applicants.

8. We were informed at an earlier stage of hearing of these cases, that there were many retired pensioners working as SDSAs at Bangalore City. When we suggested that their continuance was unjustified on the very terms of the order made by Government reproduced earlier and otherwise also, Sri Rao brought to our notice



to-day that the services of all retired pensioners working as SDSAs in RMS 'Q' Division had since been terminated and efforts will be made to accommodate the applicants and similarly placed persons except the applicants in A.Nos. 677 and 678 of 1987 in their places to the extent possible as heretofore on the very terms and conditions on which they had earlier been appointed. On this offer being made, Sri Achar and Smt.Sridharan state that the applicants without persuing their challenge to the termination orders were ready and willing to accept the offer made by the respondents. In this view we decline to examine the validity of the orders of termination made against the applicants.

9. Sri Rao contends that Applicants in Applications Nos.677 and 678 of 1987 are working as ED agents and the question of accommodating them as SDSAs either at Bangalore or in other places does not arise.

10. Applicants in A.Nos.677 and 678 of 1987 who are before us express their willingness to continue as ED agents without making any claim for their appointment as SDSAs. On this view, their applications are liable to be dismissed. We also declare that those working both as ED agents and SDSAs are not entitled for any accommodation as SDSAs.

11. Some of the applicants in these cases are ladies. Counsel for them suggest that it is desirable to accommodate them where they are working if that is feasible. We have every hope that the department will make an earnest attempt to accommodate them where they were earlier working if that is feasible. But, if that is not feasible, then the department is free to accommodate them at such other places as is found necessary.



12. In the light of our above discussion we make the following orders and directions:

1) We dismiss Application Nos. 677 and 678 of 1937.

2) We direct the respondents to consider the cases of other applicants for accommodating them at such places as is found feasible subject to the observations made in this order.


13. Applications are disposed of in the above terms. But, in the circumstances of the cases, we direct the parties to bear their own costs.



Sd/-
VICE-CHAIRMAN

Sd/-
MEMBER(A)

True Copy


SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE