

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION NO. 998/94

Date of Decision: 9.12.98

~~Shri Pradeep Bandepant Bhagwat~~ Petitioner/s

~~Shri S.P. Kulkarni~~ Advocate for the
Petitioner/s.

v/s.

Union of India and others. Respondent/s

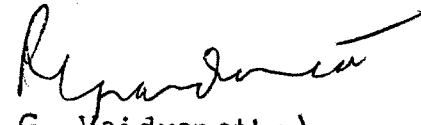
Shri S.S. Karkera for Advocate for the
Shri P.M. Pradhan. Respondent/s

CORAM:

Hon'ble Shri Justice R.G. Vaidyanatha, Vice Chairman

Hon'ble Shri D.S. Baweja, Member (A)

- (1) To be referred to the Reporter or not? *no*
(2) Whether it needs to be circulated to other Benches of the Tribunal? *no*


(R.G. Vaidyanatha)
Vice Chairman

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH 'GULESTAN' BUILDING NO:6
PRESCOT ROAD, BOMBAY:1

Original Application No. 998/94

Wednesday the 9th day of December 1998.

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman

Hon'ble Shri D.S. Baweja, Member (A)

Pradeep Bandopant Bhagwat.
Residing at H.No. 4909
Mali Wada, Aman Patil Road,
Near Machhi Building
At P.O. & District Ahmednagar. ... Applicant.

By Advocate Shri S.P. Kulkarni.

V/s.

Union of India through
Senior Superintendent of
Railway, Mail Service,
'B' Division, at P.O. Pune.

Postmaster General
Pune Region,
Pune.

... Respondents.

By Advocate Shri S.S.Karkera for Shri P.M.Pradhan.

ORDER (ORAL)

¶ Per Shri Justice R.G. Vaidyanatha, Vice Chairman ¶

This is an application filed under
Section 19 of the Administrative Tribunals Act 1985.
The respondents have filed reply opposing the
application. We have heard the learned counsel
appearing on both sides.

2. The applicant's claim is that he was
engaged by the respondents on part time basis for
performing the duty as Extra Departmental Mail Man
at Ahmednagar continuously from 16.1.1989 onwards.
In para 4.3 of the application at page 4 of the
paper book it is mentioned that the applicant has
worked 1010 days. The grievance of the applicant
is that his services were orally terminated by the
respondents on 11.2.1992. The applicant is

challenging the legality and validity of the oral order of termination. It is also stated that the applicant is entitled to be granted temporary status as per the Scheme of the Ministry of Communication, Department of Posts O.M. dated 12.4.91. The applicant has therefore approached this Tribunal for a declaration that he has completed 480 days on part time basis, and he is entitled to get temporary status in terms of the O.M. dated 12.4.91 and to quash the oral termination order dated 11.2.1992 and for a direction to the respondents to re-engage and to register the applicant's name in the seniority list of casual labourer.

3. The respondents have filed reply opposing the application. Their case is that the applicant is not entitled to get the temporary status as he was appointed on part time basis as casual labourer. Since there was no work available the applicant was orally informed that he need not attend the duty from 11.2.92. The applicant is not governed by the O.M. dated 12.4.1991, since he was part time casual labourer. It is further stated that since the applicant was working on part time basis there is no question of getting temporary status or regularisation. It is therefore stated that the applicant is not entitled to any of the reliefs

4. After hearing both the sides and going through the materials on record and the law laid down in the recent decision of the Supreme Court, 1998(1) SC SLJ 180 (Secretary, Ministry of Communications and Ors. V/s. Sakkubai and Anr. where the Supreme Court has observed that the casual labours on part time basis are entitled to

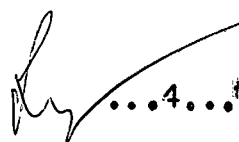
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regularisation subject to the conditions mentioned in 1989 Scheme. Therefore in the circumstances of the case we feel that the applicant's claim for regularisation under 1989 Scheme should be considered by the respondents and if he is satisfying the conditions of the Scheme then he must be given regularisation subject to seniority etc.

5. The learned counsel for the applicant submitted that there is sufficient work in the department and therefore a direction be given to the respondents to re-engage the applicant. The learned counsel for the respondents submitted that there is no work available. There is serious dispute about the availability of the work and this Tribunal cannot go into the correctness or otherwise of the disputed question. But if there is work and the respondents want to get that work done by engaging fresh hands, instead of going to the open market or engage fresh hands they must give preference to the applicant subject to his seniority.

6. In the result the application is partly allowed as follows:

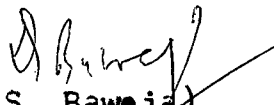
The respondents should consider the case of the applicant for regularisation as per 1989 Scheme subject to seniority and fulfilling the terms and conditions of the scheme in the light of the declaration of law by the Supreme Court in 1998(1) SC SLJ 180. Whenever there is work the respondents should get the work done, instead of going to the open market, they must give preference


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to the applicant subject to seniority etc.

In the circumstances of the case there
will be no order as to costs.


(D.S. Baweja)
Member (A)


(R.G. Vaidyanatha)
Vice Chairman

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