

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NOS.: 281/97 AND 282/97.

Dated this Tuesday, the 28th day of April, 1998.

CORAM : HON'BLE SHRI JUSTICE R. G. VAIDYANATHA,  
VICE-CHAIRMAN.

HON'BLE SHRI P. P. SRIVASTAVA, MEMBER (A).

1. Nilesh Dnyaneshwar Kamble,  
Ex-Casual Labourer,  
Departmental Canteen,  
Mumbai R.M.S.,  
Mumbai - 400 001.

Residing at -  
Ramabai Colony,  
Chembur Railway Stn.  
Crossing Rahul Galli,  
Mumbai - 400 071.

Applicant in  
O.A. No. 281/97.

2. Shivaji Janardan Kadalak,  
Ex-Casual Labourer,  
Departmental Canteen,  
Mumbai R.M.S., Mumbai-400 001.

Residing at -  
Kurla Buddha Colony,  
Amar Sewa Mandal, Pipe Line,  
Gokul Pawar Chawl, Room No.199,  
Mumbai - 400 070.

Applicant in  
O.A. No. 282/97.

3. Honorary Secretary,  
All India R.M.S. & M.M.S. Employees  
Union (Mail Guards, Mailman)  
(R-IV), Maharashtra Circle,  
Mumbai Branch.

Residing at -  
3/19, Mulund P & T Colony,  
Mumbai - 400 080.

Applicant in  
both the O.As.

(By Advocate Shri S. P. Kulkarni)

VERSUS

1. Union Of India through the  
Senior Superintendent of Railways,  
Mail Service, Mumbai Sorting  
Division, Mumbai.
2. Postmaster General (Mail Man),  
Maharashtra Circle, G.P.O. Bldg.,  
Fort, Mumbai - 400 001.

3. Chief Postmaster General,  
Maharashtra Circle,  
G.P.O. Building, 2nd Floor,  
Fort, Mumbai - 400 001.

... Respondents.

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

: OPEN COURT ORDER :

PER.: SHRI R. G. VAIDYANATHA, VICE-CHAIRMAN

These are two O.As. in which the applicants pray for regularisation of service and for other consequential reliefs. The respondents have filed reply opposing both the O.As. We have heard the Learned Counsels appearing on both sides.

2. The first applicant in each case are working in Staff Canteen of R.M.S. The applicant No. 1, Nilesh D. Kamble, in O.A. No. 281/97 is working as Casual Labourer from 1989 in different spells of period from 1989 to 1995. The applicant no. 1, Shivaji J. Kadalak, in O.A. No. 282/97 is working as Casual Labourer in different spells of time from 1993 to 1995. Mr. N. D. Kamble has worked for more than 240 days in the Calendar Year 1994 and again in 1995. As far as S. J. Kadalak is concerned, he has worked for more than 240 days in the calendar year 1994 and 1995. The first applicants in these two cases claim that their services were terminated by oral order and therefore, they approached this Tribunal for a declaration that oral order of termination is illegal and liable to be set aside and for a direction to the respondents to re-engage the applicants and to regularise their services, etc.

3. The respondents have filed reply opposing both the O.As. They have taken the stand that the applicants being casual labourers, are not governed by the 1993 circulars, since they had not completed 240 days in any calendar year prior to the cut off date, i.e. 01.09.1993. It is, therefore, stated that the applicants being casual labourers, were terminated and they have no right to ask for any of the reliefs in the two original applications.

4. At the time of hearing, the Learned Counsel for the applicants pressed two reliefs. One is for a direction to the respondents to consider the representation of the applicants for regularisation of their service and the other relief is that, if there is work, the applicants can be engaged on casual basis. The Learned Counsel for the respondents, Shri S.S. Karkera, submitted that as far as the applicants representation is concerned, the department will consider the same as per rules. Even for engaging the applicants on casual basis, he submitted that if there is work, the applicants will be considered as per rules.

5. The Learned Counsel for the applicants brought to our notice some decisions of different Tribunals, where some clarifications were given for regularising the casual labourer employees, in particular, they had relied on the case reported in (1997) 36 ATC 450 ¶ Manas Kumar Mity & Others V/s. Union Of India & Others ¶, wherein direction is



given by the Tribunal that the applicants of that case should be considered for regularisation in terms of the 1993 circular.

6. Having heard both sides, we feel that direction should be given to the respondents to consider the case of the applicants for regularisation in terms of the circulars dated 12.04.1991 and 01.11.1995 and pass appropriate orders according to rules. If the applicants are aggrieved by any such order, they may approach this Tribunal according to law.

If there is existing available work in the Canteen of the respondents, then the applicants may be considered for being engaged on casual basis.

Both the Original Applications are disposed of with the above directions. Copy of this order be communicated to the respondents for information and compliance. Liberty to the applicants to make formal representation making out their case for regularisation within a period of six weeks from today. If such a <sup>representation</sup> is received, the respondents shall dispose of the same within a period of three months from the date of receipt of the representation. In the meanwhile, the respondents may consider the case of the applicants for engagement on casual basis if there is available work.

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

(P.P. SRIVASTAVA)  
MEMBER (A).

(R.G. VAIDYANATHA)  
VICE-CHAIRMAN.