

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO:736/1998

Date of Decision:09/9/2002

Shri R.D.Kurne & 68 Ors.

Applicant

Shri S.P.Kulkarni

Advocate for the
Applicant

Versus

Union of India & 2 Ors
& Broadcasting & 4 Ors.

Respondents

Shri V.S.Masurkar

Advocate for the
Respondents

CORAM:

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

- (i) To be referred to the reported or not? Yes
- (ii) Whether it needs to be circulated to other Benches of the Tribunal? No
- (iii) Library? No

B.N.BAHADUR
(B.N.BAHADUR)
MEMBER(A)

abp

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO: 736/1998
DATED THE 9TH DAY OF SEPT, 2002**

**CORAM: HON'BLE SHRI JUSTICE BIRENDRA DIKSHIT, VICE CHAIRMAN
HON'BLE SHRI B.N.BAHADUR, MEMBER(A)**

1. Shri R.D.Kurne
2. Shri S.B.Mohite
3. Shri M.N.Ammane
4. Shri N.B.Jawalkar
5. Shri A.S.Gawde
6. Shri B.N.Mondkar
7. Shri V.G.Indulkar
8. Shri N.M.Sasunkar
9. Mohomed Salim
10. Shri M.R.Waghe
11. Shri S.K.Pawar
12. Shri P.D.Raokhande
13. Shri S.M.More

All working in Azadnagar Post Office, Mumbai 400 053.

14. Shri S.M.Posam
15. Shri S.R.Chawan
16. Shri N.S.Rane
17. Shri S.V.More
18. Shri A.G.Thavi
19. Shri S.S.Sawant
20. Shri D.S.Naval
21. Shri Sayed Yunus
22. Shri R.G.Virkar
23. Shri R.M.Jagtap
24. Shri V.K.Parab
25. Shri E.B.Parab
26. Shri A.B.Prabhu
27. Shri S.S.Jadhav
28. Shri V.K.Yadav
29. Shri S.M.Dusunkar
30. Shri K.R.Sawant
31. Shri S.D.Bane

All working in Andheri R.S. Post Office, Mumbai-400 058

32. Shri P.R.Kardekar
33. Shri M.K.Gode
34. Shri M.D.Sawant
35. Shri A.A.Kamblu
36. Shri G.B.Patil
37. Shri S.S.Salvi
38. Shri R.R.Panchal
39. Shri D.B.Pachnekar
40. Shri J.V.Chavan
41. Shri G.S.Sawant

All working in M.I.D.C. Post Office, Mumbai - 400 093.



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- 42. Shri S.P.Sawant
- 43. Shri V.M.Jaiswar
- 44. Shri S.R.Madav

All working in Versova Post Office, Mumbai-400 061.

- 45. Shri M.M.Jaiswar
- 46. Shri S.S.More
- 47. Smt Hemangi Parab
- 48. Shri B.B.Jogdand
- 49. Shri S.T.Chinkate
- 50. Miss.M.B.Relekar
- 51. Shri M.K.Nawale

All working in Santacruz (West) Post Office, Mumbai-400 054

- 52. Shri V.H.Chipte
- 53. Shri N.A.Kamble
- 54. Shri R.K.Jaiwar
- 55. Shri T.V.Surve
- 56. Shri D.H.Jadhav
- 57. Shri G.B.Kadam

All working in Vile Parle (East) Post Office, Mumbai-400 057

- 58. Shri G.B.Panchal
- 59. Shri R.C.Wagh
- 60. Shri R.S.Mehetar
- 61. Shri V.S.More
- 62. Shri S.B.Panchal
- 63. Shri K.L.Palkar
- 64. Shri P.P.Naik
- 65. Shri A.S.Davande

All working in J.B.Nagar Post Office, Mumbai -400 059.

- 66. Shri R.D.Vithma
- 67. Shri S.G.Chalke

Both working in Vile Parle (West)Post Office, Mumbai-400 056

- 68. Shri M.V.Sawant

working in Santacruz (E) Post Office, Mumbai - 400 055.

- 59. Shri P.R.Gawade

working in Bandra(East), Postoffice, Mumbai - 400 051.

... Applicants

By Advocate Shri S.P.Kulkarni

V/s.



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.....OA No.736/1998

Union of India
Through:

1. Postmaster General,
Maharashtra Circle, G.P.O.,
Mumbai - 400 001.
2. The Senior Superintendent of Post Office
(Bombay North Division),
Azad Nagar Post Office,
Mumbai - 400 053.
3. The Postmaster, Azad Nagar P.O., ... Respondents
Andheri, Mumbai - 400 053.

All the 69 applicants are now re-engaged as per their
ultimate consideration under a proper category.(Exhibit-E)

By Advocate Shri V.S.Masurkar

(ORAL)(ORDER)

Per Shri B.N.Bahadur, Member(A)

We are dealing here with OA No.736/1998. Another OA, bearing No.92/1998, which was linked is being delinked, as none is present for the Applicant(in OA-92/1998).

2. We have seen the papers in the OA No.736/1998 and have heard Learned Counsel Shri S.P.Kulkarni at some length and also Shri V.S.Masurkar the later appearing for the Respondents. A perusal of para-8 of the OA shows that it is prayed that the letter/order of 5/8/1998 issued by second Respondent (copy at page-26) be ordered to be set aside. It is also prayed that the applicants be regularised in permanent post/s of Postman, since they have worked for nearly seven to ten years with continuity of service. Consequent reliefs are sought. It must be stated that the aforesaid letter sought to be set aside (dt. 5/8/1998) is infact in the nature of a circular from Senior Superintendent of Post Offices, Mumbai City North Dn, Azad Nagar, Mumbai-400 053.

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It comes as general instructions regarding engagement of coolies and places a restriction of employment for not more than 89 days. Certain other aspects are also covered.

3. Learned Counsel Shri S.P.Kulkarni took us through the facts and stated that basically the Applicants (69 in number), and were all engaged around the year 1993, and that they were really engaged as casual postman and not as coolies, although the term coolie has been used while engaging them. Infact, he stated that this practice is wrong and they should be engaged as casual postman. The Learned Counsel also stated that there is a scheme for providing opportunity to people like applicants to appear at Departmental Examination conducted, to appoint them regular postman from outsiders quota. Time and again he referred to the judgement of G.Manjunath & Ors. V/s. The Postmaster General, Bangalore and Others and sought benefit on that basis. It was also pointed out by Learned Counsel that some of the Applicants have completed 240 days in one year and others in two years, and some have not completed 240 days. Infact, the Learned Counsel for Respondents had taken the objection on joint application but we agree with the point made by the Applicant's Counsel that principles are sought to be challenged, through the facts vary.

4. On the principles, particularly, we find that the application is full of defects. No demand has been raised by way of representation firstly. The Learned Counsel for Applicant admitted to this, and stated that all the Applicants have come directly in this OA for the first time raising this grievance. It was necessary that the demand should have been raised before

the Competent Authority by way of representation/s. Some of the grievances are of administrative nature. The "Scheme" being referred to continuously is not appended and the allegations are made that the Respondents are not able to produce full facts and meet the averments as they do not have full facts. It is true that the Respondents have stated that records are not available but the Learned Counsel for Respondents Shri Masurkar made the point that in the first place they are not casual labour and in the second place it is not admitted by Respondents that they have completed 240 days as required. We are faced with a severe limitation of not being provided even with the copy of the Scheme and defend facts on behalf of which Applicants as to what exactly is the grievance. Applicants cannot come up with contentions, provide no basis and expect to get benefits by asking Respondents to bring out all facts. A blanket conclusion in regard to the general instructions being issued by impugned order cannot be issued. Infact, if the allegations of the Applicant are that they were not coolies then even technically their seeking the quashing of impugned order is not possible, since those orders speak only on the subject of engagement of coolies, and does not cover the aspect of filling up the post of Postman on casual basis.

5. The judgement of G.Manjunath has also been seen, copy being appended at page-122. Infact, what is being asked is three chances to appear as stated by Learned Counsel Shri Kulkarni. It is not clear to us how the Manjunath case will help the

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...OA No.736/1998

Applicants. In fact, a one time opportunity has been provided in that case, based on facts therein, and in the absence of facts in the present case or specific averments regarding clear cut grievances, the case of Manjunath will not provide any assistance to the Applicant's case.

6. We find that the OA is indeed very vague and does not make out any case for interference. The Learned Counsel Shri Kulkarni also sought liberty from the Tribunal for making representation now. Well as they may be free to make representation, it is made clear that this will not save them from the law of limitation.

7. As there no case for interference, the OA is dismissed with no orders as to costs.

B.N.Bahadur

(B.N.BAHADUR)
MEMBER(A)

B.Dikshit

(BIRENDRA DIKSHIT)
VICE CHAIRMAN

abp