

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, BOMBAY.

Original Application No: 615/98, 616/98, 617/98, 618/98, 619/98,  
620/98, 621/98, 622/98, 623/98, 624/98  
625/98 and 626/98.

Tribunal's order

Dated: 18.9.98.

Shri S.P. Kulkarni, counsel for the applicant.  
Shri P.M. Pradhan, counsel for the respondents.

At the request of the learned counsel for the applicant adjourned to 28.9.98. Liberty to the applicant to file rejoinder before the next date of hearing. Interim relief to continue till then.

Sd/-  
(D.S. Baweja)  
Member (A)

Sd/-  
(R.G. Vaidyanatha)  
Vice Chairman.

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Rejoinder of application  
recd. on 28-9-98

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GULESTAN BLDG. NO. 6, 4TH FLR, PRESCOT RD, FORT,

MUMBAI - 400 001.

ORIGINAL APPLICATION NOS: 615/98 to 626/98

AND 730/98 & 732/98.

DATED THE 30TH DAY OF SEPTEMBER, 1998.

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman.  
Hon'ble Shri D.S.Baweja, Member (A).

Shri Sunil Maruti Kamble ... Applicant in  
OA-615/98.

Shri Sambhaji Rajaram Chavan ... Applicant in  
OA-616/98.

Shri Haroon Noormohmad Mujawar ... Applicant in  
OA-617/98.

Shri Samir R Bhosle ... Applicant in  
OA-618/98.

Shri Sunil Pandurang Dalvi ... Applicant in  
OA-619/98.

Shri Krishnarao Ramchandra Jagadale ... Applicant in  
OA-620/98.

Shri Dnyanprakash Chandrawali Nagar ... Applicant in  
OA-621/98.

Shri Mahindra Shataram Joshi ... Applicant in  
OA-622/98.

Shri Deepak Dattaram Monde ... Applicant in  
OA-623/98.

Shri Abhay Ramchandra More ... Applicant in  
OA-624/98.

Shri Dattatray Bajirao Biramane ... Applicant in  
OA-625/98.

Shri Santosh Balaram Patil ... Applicant in  
OA-626/98.

Shri Prabhakar Dagdu Udage ... Applicant in  
OA-730/98.

Shri Sachin Balkrishna Sawant ... Applicant in  
OA-732/98.

Shri Vilas K Salunke,  
Branch Secretary, All India Postal  
Employees' Union (Postmen & Gr. 'D')  
C/o. Vashi Post Offices,  
Navi Mumbai, Branch, AT P.O. Vashi-410206.

Applicant No. 2 in  
OA Nos. 615/98 to  
626/98.

By Advocate Shri S.P. Kulkarni

v/s.

Union of India  
(Through Department of Post)

1. Director General (Posts),  
Department of Posts,  
Ministry of Communications,  
Government of India, Dak Bhawan,  
Parliament Street P.O.,  
New Delhi-110 001.

2. Chief Postmaster General,  
Maharashtra Circle, Old G.P.O. Bldg,  
2nd Floor, Near C.S.T. Central  
Railway, Fort, Mumbai - 400 001.

3. Post Master General (M.M.),  
Office of the Chief Postmaster General,  
Maharashtra Circle, Old G.P.O. Bldg,  
Near C.S.T. Central Railway,  
Mumbai - 400 001.

4. Superintendent of Post Offices,  
Navi Mumbai Division, Navi Mumbai  
AT P.O. Panvel - 410 206.

5. Assistant Superintendent of Post  
Offices, Panvel Sub-Division,  
At P.O. Panvel-410 206,  
Navi Mumbai.

Respondents in  
all OAs.  
OA Nos. 615/98  
to 626/98,  
730/98 & 732/98.

By Advocate Shri P.M. Prauhan.

I O R D E R I

I Per Shri R. G. Vaivyanatha, Vice Chairman I

1. This is an application under Section 19 of  
Administrative Tribunals Act. The respondents have filed  
reply. We have heard the Learned counsels appearing on  
both sides regarding admission.

2. All the applicants in these cases were working  
as postmen as Casual Labourers. Their services came to be  
terminated on 9/7/98 on the ground that they participated  
in the Postal strike. The applicants therefore have  
approached this Tribunal challenging the order of  
termination. They also say that they are entitled to be  
regularised as Postman after giving them permission to  
appear for competitive examination to be held for the  
appointment as postman.

Respondents have filed reply opposing the OA.

3. Shri S.F. Kulkarni, learned counsel for applicant  
contended the order of disengagement or termination of  
applicants is illegal. He pointed out that these applicants  
have been working since many years, some of them from 1990.,  
and now they have been victimised due to postal strike  
and therefore it is contended that the order of termination  
is illegal. He also states that the work in New Bombay is

heavy and the respondent be directed to engage the applicants without going to open market. He also submitted that the applicants have completed 240 days and should be allowed to appear for the competitive examination, to be held for the recruitment of postman. Shri P.M.Frachan, counsel for respondents contended that engagement of casual labourers was contrary to rules and therefore applicants cannot get any relief prayed for in the OA.

4. After hearing both the sides, we find that the applicants' prayer for participating in the examination, cannot be granted in the facts and circumstances of the case. We do not want to express our opinion whether a casual labour like applicants has a right to appear in the competitive examination for the recruitment of postmen. The applicants had never applied for examination and their request has not so far been rejected. They only need to apply for permission to appear for such examination as and when the next examination is to be conducted. If such an application is made, the respondents will consider whether the applicants are eligible to be permitted to be considered for the examination or not. If any order is passed by respondents and applicant is aggrieved, then it is open to applicants to challenge the same according to law.

5. As far as the termination or dis-engagement of applicants are concerned, it is brought to our notice that the Postal Union has taken up the matter and it is being considered at the highest level. If on the basis of that the applicants can get any relief, then the applicants can take advantage of the same irrespective of the result of this OA. This is without prejudice to the rights of the applicants about the negotiations being held at the highest level.

6. It is the case of the applicants that there is sufficient work at New Bombay and therefore the applicants should be engaged. It is well settled that a Tribunal or

Court cannot give a direction when to fill up a particular post. It is for the Government to decide whether a particular post should be filled up or not. However, if the respondents decide to fill up the post, ~~or any other~~ posts, then they should not go to open market for freshers but call the applicants according to their seniority <sup>who have</sup> ~~has~~ already worked for some time for the past few years. This is the only relief we can give. Whenever such appointments are made, naturally this should be on the basis of seniority of the applicants on the basis of their casual employment.

7. In the result, the OA <sup>are</sup> disposed of at the admission stage with following directions:-

1. As and when respondents decide to engage postmen on casual basis at New Bombay, instead of going to open market or engaging freshers, the respondents are directed to consider the applicants on the basis of their seniority.
2. The question whether the applicants have a legal right to appear for competitive examination for the appointment of postmen ~~is~~ left open subject to observations made during the course of this order.
3. <sup>Untested</sup> All other ~~conditions~~ are left open.
4. No costs.

(D.S.BAWEJA)  
MEMBER(A)

(R.G.VAIDYANATHA)  
VICE CHAIRMAN

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