

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

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.

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

I O R D E R I

I Per Shri R. G. Vaiayanatha, 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 ^{that} 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. Pradhan, 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

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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 who ^{have} 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, ^{are} ~~is~~ 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. All other ^{conditions} ~~conditions~~ are left open.
4. No costs.

(D.S. BAWEJA)
MEMBER (A)

(R.G. VAIDYANATHA)
VICE CHAIRMAN

abp.