

(51)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.319 of 1989.

Date of Judgment 17-4-90

Smt. B.Sarada Devi
& another

.. Applicants

Versus

The Secretary,
Ministry of Communications,
New Delhi
& 3 others

.. Respondents

Counsel for the Applicants : Shri T.Jayant,
Advocate.

Counsel for the Respondents : Shri J.Ashok Kumar,
Advocate.

CORAM:

Hon'ble Shri J.Narasimha Murthy : Member(Judl).

Hon'ble Shri R.Balasubramanian : Member(Admn).

[Judgment as per Hon'ble Shri R.Balasubramanian,
Member(Admn)]

This is an application filed by Smt. B.Sarada Devi
and another against the Secretary, Ministry of Communica-
tions, New Delhi and 3 others under section 19 of the
Administrative Tribunals Act.

2. In response to an advertisement calling for applica-
tions for the post of Postal Assistants for the vacancies
for the 1st half of 1981 in Vizianagaram Postal Division
the applicants applied. Vide their letter dated 8.12.81
the respondents informed the applicants that they had been
provisionally brought on to the waiting list and required

them to produce original certificates. This over, the applicants were asked to undergo practical training for 15 days at Vizianagaram H.O. Subsequently they were appointed as Short Duty Postal Assistants. The applicants contend that they had worked for more than 120 days from 11.1.82 to 8.7.82. It is their contention that having worked for more than 120 days over a period of six months they are eligible for absorption under the rules of the scheme.

3. Their services as Short Duty Postal Assistants were terminated on 9.7.82. Since then they had been approaching through various channels and finally got a reply dated 16.12.88 from the Office of the Director of Postal Services, Visakhapatnam stating that their representation for ~~regular~~ absorption as regular Postal Assistants had been considered by the Directorate and that the action of the Supdt. of Post Offices, Vizianagaram in terminating their services as Short Duty Postal Assistants was in accordance with the departmental rules. The applicants have also referred to the judgment dated 4.9.87 of this Tribunal in a similar case in O.A.No.225/86. They have prayed that the respondents be directed to absorb the applicants as regular Postal Assistants.

4. The respondents have opposed the prayer. They have raised the question of limitation. According to them the cause of action arose on 9.7.82 when the

services of the applicants were terminated as Short Duty Postal Assistants. This being more than 3 years before the Tribunal came into existence the application is not maintainable.

5. The applicants who had applied for the posts of Postal Assistants in Vizianagaram Division for the 1st half of 1981 could not be selected because of their low marks. There was no recruitment in that Division for the 2nd half of 1981. However, the names of the applicants were brought on to the waiting ^{list} to tide over the pressure of work in the Division and the applicants were employed as Short Duty Postal Assistants from 11.1.82. The recruitment for the 1st half of 1982 was finalised on 26.4.82 and fresh Short Duty Clerks were taken from 1.7.82 onwards from among the waiting list of the recruitment for the 1st half of 1982. In accordance with the rules of the scheme the services of the applicants as Short Duty Clerks had therefore to be dispensed with.

As on 26.4.82, the applicants had only 67 days and 70 days of service as Short Duty Postal Assistants. It is their contention that while they had more than 120 days of service as Short Duty Postal Assistants as on 8.7.82 at the time of termination of their services they had only less than 70 days on 26.4.82 when the recruitment for the 1st half of 1982 was completed. It is their contention that according to the rules on the subject it is the

^{period}
six months preceding the date of recruitment that is the

main criterion. As regards the judgment of this 54 Tribunal in O.A.No.225/86 referred to by the applicants, the respondents contend that the applicants in that case are different and should not automatically be extended to this case.

6. The respondents have raised the question of limitation. Although their services as Short Duty Postal Assistants were terminated on 9.7.82 itself the applicants had been agitating through various fora. The final reply from the respondents against which the applicants felt aggrieved was the one dated 16.12.88. This rejection was after consideration of the case by the Director-General. Taking this as the cause of action they are well within the time limit.

7. We have examined the case and heard the learned counsel for the applicants. The question before us is whether the applicants are eligible for absorption in accordance with the rules. The Director-General, Posts & Telegraphs, New Delhi's letter dated 28.12.71 on the employment of Short Duty Postal Assistants (annexure 6 to the application) states vide para 7 that the short duty staff will be absorbed according to their turn in the merit list in the next year of recruitment provided they have put in at least 120 days of service in the six months preceding absorption in the regular establishment. In the instant case the applicants applied for the vacancies of the 1st half of 1981

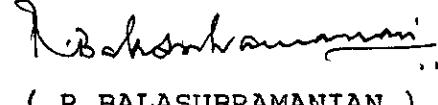
Even as Short Duty Postal Assistants they were employed much later from January, 1982 only. The recruitment for the 1st half of 1982 was completed on 26.4.82.

The date when the recruitment for the next year was completed is the main criterion and on 26.4.82 the applicants did not have the required service of 120 days. Hence they have no case for absorption in accordance with this rule.

8. In view of our findings at para 7 above, the application is liable to fail. We accordingly dismiss the application with no order as to costs.



(J. NARASIMHA MURTHY)
Member (Judl).



(R. BALASUBRAMANIAN)
Member (Admn).

Dated 17-4-1982

Avanti A/S
REGISTRAR

TO:

1. The Secretary, (Union of India) Ministry of communications, New Delhi-1.
2. The Postmaster General, Andhra Circle, Hyderabad-500 001.
3. The Director of postal services, A.P. North Eastern Region, Visakhapatnam-530 020.
4. The superintendent of post offices, Vizianagaram division Vizianagaram-4 531 202.
5. One copy to Mr. T. Jayant, Advocate, 17-35 B, Srinagar colony, Gaddiannaram Dilsukhnagar, P&T colony P.O. Hyderabad-500 660
6. One copy to Mr. J. Ashok Kumar, SC for postal department, CAT., Hyderabad.
7. One copy to Hon'ble Mr. R. Balasubramanian: Member: (A), CAT., Hyderabad.
8. One spare copy.

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CHECKED BY

TYPED BY:

COMPARED BY :

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYD.

HON'BLE MR. B. N. JAYASIMHA:—V.C.

HON'BLE MR. D. SURYA RAO: MEMBER: (JUDL)

A N D

HON'BLE MR. J. NARASIMHA MURTHY (M) (J) ✓

A N D

HON'BLE MR. R. BALASUBRAMANIAN: (M) (A) ✓

DATED: 17-4-90.)

ORDER/JUDGMENT: ✓

M.A./R.A./C.A./No. in

T.A. No.

W.P. No.

O.A. No. 319/89/

Admitted and Interim directions issued.

Allowed.

Dismissed for default.

Dismissed. ✓

Disposed of with direction.

M.A. ordered.

No order as to costs. ✓

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