

(19)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:  
AT HYDERABAD.

O.A.NO. 962/93

DATE OF JUDGMENT: 18.8.1995

BETWEEN:

R.Sudhakar

..

Applicant

and

1. Supdt. of Post Offices,  
Ananthapur Division,  
Krishnadevaraya Sadan  
Ananthapur-1.
2. Postmaster General-AP  
Southern Region  
Ashoknagar  
Kurnool-5.
3. Director General,  
Dept. of Posts, Dak Bhavan  
Sansad Marg,  
New Delhi-1.

..

Respondents

COUNSEL FOR THE APPLICANT: SHRI KRISHNA DEVAN

COUNSEL FOR THE RESPONDENTS: SHRI N.R. DEVRAJ  
Sr./Asst. CGSC

CORAM:

HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

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O.A.962/93

Dt.of order:18.8.1995

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ORDER

As per Hon'ble Shri Justice V.Neeladir Rao, Vice-Chairman

Heard Shri Krishna Devan, Counsel for the applicant and Shri N.R.Devraj, Standing Counsel for the respondents.

2. The applicant was selected as Reserve Trained Pool (RTP for short) candidate in the cadre of Postal Assistant in Anantapur Division during the first half-year of 1982. He was appointed as a regular Postal Assistant by order dated 13.9.1988 and he joined the said post on 14.9.1988. This OA was filed praying for a declaration that the applicant is entitled to get the benefit of service rendered as Short Duty/ Reserve Trained Pool Postal Assistant during the period from 5.7.1983 to 13.9.1988 for the purpose of qualifying service in the matter of seniority, annual increments, pension, etc., and for further direction to the respondents to fix the pay of the applicant at the minimum of the pay scale of Rs.260-480 with effect from 5.7.1983.

3. The contention for the applicant is that, as the duties of the RTP Postal Assistant and the regular Postal Assistant are same, the RTP Postal Assistant has to be paid the same pay that is being paid to the regular postal assistant and hence, the pay of the applicant has to be fixed at the minimum of the pay scale of Rs.260-480 that existed on 5.7.83, the date on which he joined as RTP Postal Assistant, and <sup>he</sup> has to be given annual increments, and his pay has to be revised with effect from 1.1.1986 in the scale of Rs.975-1660 and accordingly his pay has to be fixed on 14.9.1988, the date on which his services were regularised and <sup>he</sup> has to be paid arrears.

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4. It is urged for the respondents that at the time of selection for the post of Postal Assistant, 'A' list which is otherwise called as 'Z' list or select list is prepared for empanelling candidates selected to the extent of vacancies existing and 'B' list is prepared for 50% of the number empanelled in 'A' list for keeping them in 'Reserved Trained Pool' for utilising their services on hourly basis in the leave vacancies, etc., and hence, they are referred to as Short-duty assistants. They were paid on hourly basis at the rates fixed and they were being absorbed as and when ~~xxxx~~ their turn arises for filling up the vacancies that arise after those in 'A' are exhausted. No fresh recruitment to the post of Postal Assistant will be made in the circle till 'B' list <sup>is</sup> exhausted, <sup>is</sup> the other contention for the respondents.

5. Various reliefs were claimed by RTP Postal Assistants who were later absorbed as Postal Assistants in OA 814/90 and batch before Ernakulam Bench of the Central Administrative Tribunal. One of the claims made therein is for fixing of pay with effect from their date of initial engagement as RTP Postal Assistant for the purpose of annual increment, bonus, length of service for the purpose of appearing in departmental examination and for seniority and other purposes. Ultimately, it was ~~decided~~ held therein that as the RTP candidates who had rendered <sup>for</sup> 8 service hours a day continuously, on completion of one year of such service, should be deemed to have attained temporary status and on attainment of such temporary status, they have to be given all the benefits available to casual mazdoors. It is stated for the respondents that the Judgement therein in regard to the conferment of temporary status was stayed by Apex Court in SLP No.8193/93 vide Judgement dated 29.3.93 and CC No.20847/93 dated 21.4.1992, and the above are pending, when the applicant

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in OA 1138/91 on the file of Hyderabad Bench, who was also absorbed as regular Postal Assistant after working as RTP Postal Assistant, claimed reliefs similar to the reliefs in this OA, the benefits as per Judgement in OA 814/90 (of Ernakulam Bench) were granted.

6. The learned counsel for the applicant referred to a Judgement in OA 739/93 dated 22.9.94, wherein, the RTP Telephone Operators, who were subsequently regularised as regular Telephone Operators, were directed to be given regularisation with effect from the dates on which they were taken as RTP Trained Operators, to urge that the applicant also should be given the same benefit. But, it may be noted that the applicant in OA 739/93 prayed for a benefit similar to the benefit granted to the applicant in OA 952/93.

7. In OA 952/93, the respondents pleaded that for the ban, the applicant therein, would have been given the appointment as regular telephone operator from the date he joined as RTP Telephone Operator. After perusing the relevant notification in regard to the ban, the Bench comprising one of us (i.e. Vice-Chairman) held that the ban therein was for creation of new posts only, and not for appointment to the existing posts. In view of the said pleading and in view of the said material, it was held therein that the service of the applicant therein should be regularised as telephone operator.

from the date, he joined as RTP Telephone Operator. Basing on the same, the judgement in OA 739/93 was given by another Bench at Hyderabad CAT.

8. But the question of ban was not referred to in this OA. The learned counsel for the applicant submitted that as the Director General is one and the same, the same ban is applicable. We cannot accede to the said contention. The concerned authority of the AP Circle might have correctly interpreted that the ban is only for creation of posts and not in regard to the ~~xxxxxx~~ appointment to the existing vacancies of PAs. Anyhow, when the temporary status ~~alone~~ with all consequential benefits that arise on the basis of the ~~applicable~~ to the casual mazdoors are held applicable even to RTP staff by the Judgement in (1993) 23 ATC 822 (KN Sivadas & others Vs Union of India) and as the same is stayed by the Apex Court in SLP 8193/93 and CC 20847/93 and as the said Judgement <sup>is</sup> also in regard to RTP Postal Assistant, and as the applicant herein also is Postal Assistant, we feel that it is just and proper to pass the following order:

\*If ultimately SLP 8193/93 and CC 20847/93 are ~~not~~ <sup>also</sup> has to be given the same benefit of temporary status and the consequential benefits thereon that <sup>was</sup> granted to the applicants in OA 814/90 & Batch cases before Ernakulam Bench <sup>reported</sup> but, if the SLP 8193/93 and CC 20847/93 are going to be allowed, this OA stands dismissed. <sup>On the other hand</sup> But, if any modified order is going

to be passed by the Apex Court, the applicant herein also will be entitled to the benefits granted therein.

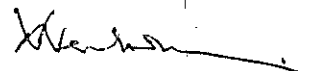
9. The applicant/respondent is free to move this Tribunal by way of MA if any further ~~sak~~ clarification in regard to the relief claimed in this OA has to be given after the disposal of the SLP and CC (cited supra) by the Apex Court.

G.A. is ordered accordingly.

10. No costs. //



(R. RANGARAJAN)  
Member (Admn)

  
(V. NEELADRI RAO)  
Vice-Chairman

Dated: 18.8.1995

Dictated in the Open Court Deputy Registrar (J) CC

mvl  
To

1. The Superintendent of Post Office, Anantapur-1.
2. The Postmaster General - AP  
Southern Region, Ashoknagar, Kurnool-5.
3. The Director General, Dept. of Posts,  
Dak Bhavan, Sansad Marg, New Delhi-1.
4. One copy to Mr. Krishna Devan, Advocate, CAT, Hyd.
5. One copy to Mr. N. R. Devraj, Sr. CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare conv.

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THPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. JUSTICE V. NEELADRI RAO  
VICE CHAIRMAN

A N D

THE HON'BLE MR. R. RANGARAJAN: (M(ADMN))

DATED 18/8 1995.

ORDER/JUDGMENT:

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

OA.No.

402/72

TA.No.

(W.P.)

Admitted and Interim directions  
issued.

Allowed.

Disposed of with directions.

~~Dismissed~~

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No. order as to costs.

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