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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
HYDERABAD

C.A.No. 682 of 1997, 94 of 1998, 380 of 1998,
381 of 1998 and 382 of 1998

DATE OF DECISION: 31.3.99

1. N.V.S.Prakash Rao & others.

PETITIONER(S)

Mr.N.Saida Rao

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

1. Union of India and others.

RESPONDENT(S)

Mr.B.Narasimha Sharma &
Mr.J.R.Gopal Rao (in OA.380 of 1998)

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE SRI R.RANGARAJAN, MEMBER(A)

THE HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER(J)

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether the Judgement is to be circulated to the other Benches?

JUDGEMENT DELIVERED BY HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER(J)

[Signature]

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:

AT HYDERABAD

O.A.Nos.682 OF 1997, 94 OF 1998,
380 of 1998, 381 OF 1998 &
382 OF 1998.

OA.No.682 OF 1997.

DATE OF ORDER: 31.3.99.

BETWEEN:

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|--------------------------|----------------------------|
| 1. N.V.S.Prakash Rao. | 6. A.Jagannadhacharyulu. |
| 2. Y.Kameshwara Rao. | 7. K.S.Ramalingeswara Rao. |
| 3. G.Santaram. | 8. K.V.V.Satyenarayana. |
| 4. A.V.V.S.N.Padmavathi. | 9. V.Sai Padma. |
| 5. M.Nagarao. | 10. V.Venkanna. |

.....Applicants

a n d

1. Union of India, represented by its Secretary, Department of Postal, New Delhi.
2. Director General, Postal, C.G.O. Complex, New Delhi.
3. Chief Post Master General, Andhra Pradesh Circle, Hyderabad.
4. Post Master General, Visakhapatnam Region, Visakhapatnam District.
5. Superintendent of Post Offices, Amalapuram Division, Amalapuram, West Godavari District.

.....Respondents

O.A.No.94 OF 1998.

BETWEEN:

1. D.Parameswara Rao.
2. S.Krishna Murthy.
3. A.V.Sudha Rani.
4. G.Sri Raja Rajeswari.
5. P.Venkata Vijaya Kumari

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|-------------------------|-----------------------|
| 6. K.Aruna. | 12. M.Visalakshi. |
| 7. M.Siva Parvathi. | 13. B.Sarada Kumari. |
| 8. K.Manikyam. | 14. M.Aruna Jyothi. |
| 9. R.Laxmana Dora. | 15. V.Bala Kameswari. |
| 10. K.Vara Prasada Rao. | 16. A.Naga Raja Rao. |
| 11. S.Samuel John. | |

.....Applicants

a n d

1. The Union of India, represented by its Secretary, Department of Postal Services, New Delhi.
2. The Director General (Postal Services), C.G.O. Complex, New Delhi.
3. The Chief Post Master General, Hyderabad.
4. Post Master General, Visakhapatnam Division, Visakhapatnam.
5. Sr.Superintendent of Post Offices, Visakhapatnam.

.....Respondents

D.A.No.380 OF 1998.

BETWEEN:

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|-------------------------|-------------------------|
| 1. P.Narasimha Rao. | 5. S.Poornachandra Rao. |
| 2. Smt.B.Ademma. | 6. M.Joshna Naik. |
| 3. Smt.K.Nanda Kumari. | 7. K.S.R.Anjaneyulu. |
| 4. T.D.Nereekshana Rao. | 8. A.Srinivasan |

.....Applicants

a n d

1. The Union of India, rep. by Secretary, Ministry of Communications, New Delhi.
2. The Director General (Postal), Dak Bhavan, Sansad Marg, New Delhi.
3. The Chief Post Master General, A.P.Circle, Hyderabad.
4. The Post Master General, Vijayawada Region, Vijayawada-1.
5. The Senior Superintendent of Post Offices, Vijayawada Division, Vijayawada.

....Respondents

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D.A.No.381 OF 1998.

BETWEEN:

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|-----------------------|-------------------------|
| 1. P.Uma Devi. | 11. A.Syamala. |
| 2. Y.Manoranjani. | 12. D.N.Ramavardhanam. |
| 3. P.Bekshapathi. | 13. D.Vasantha Kumar. |
| 4. A.K.Diwaker. | 14. D.Ourga Devi. |
| 5. N.Chandra Sakhar. | 15. D.Revathi. |
| 6. K.Mahendar. | 16. CH.Sivaramakrishna. |
| 7. K.Sashi Kala. | 17. K.Nagabhushanam. |
| 8. P.Jhanshi Lakshmi. | 18. B.Sarala Devi. |
| 9. B.Indrasena Reddy. | 19. Mogal Saleha Baig. |
| 10. M.Suarna Latha. | |

.....Applicants

a n d

1. Union of India, rep. by Secretary,
Ministry of Communications, New Delhi.
2. The Director General(Postal),
C.G.O. Complex, New Delhi.
3. The Chief Post Master General,
Andhra Pradesh Circle, Hyderabad.
4. Superintendent of Post Offices,
Hyderabad City Division, Hyderabad.
5. The Director of Accounts(Postal),
Hyderabad.

..... Respondents

D.A.No.382 OF 1998.

BETWEEN:

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| 1. B.Babu Prasad. | 7. V.Vijaya Kumar. |
| 2. Ganga Vijaya Laxmi. | 8. C.Yesurathnam. |
| 3. C.Laxmi Narayana. | 9. B.Dora Muniswamy. |
| 4. V.Dastagiri Reddy. | 10. I.G.Johnson. |
| 5. P.Satyanarayana. | 11. P.V.Chalapathi Chetty. |
| 6. K.R.Manikya Sastry. | 12. G.V.Ramanaiah Chetty. |

.....Applicants

a n d

1. Union of India, represented by
its Secretary, Ministry of Communications,
New Delhi.

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2. The Director General (Postal),
C.G.O. Complex, New Delhi.
3. The Chief Post Master General,
A.P. Circle, Hyderabad.
4. The Superintendent of Post Offices,
RMS, AG Division, Guntakal.
5. Superintendent of Post Offices,
Cuddapah, Cuddapah District.
6. Superintendent of Post Offices,
Hindupur Division, Hindupur,
Anantapur District.

.....Respondents

COUNSEL FOR THE APPLICANTS :: Mr.N.Saia Rao

COUNSEL FOR THE RESPONDENTS:: Mr.B.Narasimha Sharma &

COUNSEL FOR THE RESPONDENTS : Mr.J.R.Gopal Rao
(IN OA.380 of 1998)

CORAM:

THE HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN)

A N D

THE HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER (JUDL)

: COMMON ORDER :

(PER HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER (JUDL))

Heard Mr.N.Saia Rao, learned Counsel for
the Applicants and Mr.B.Narasimha Sharma, learned
Standing Counsel for the Respondents, and Ms.Shakti for
Mr.J.R.Gopal Rao, learned Standing Counsel for the
Respondents in OA.No.380 of 1998.

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2. These applications are filed under section.19 of the Administrative Tribunals Act. They were filed on 29-4-1997, 29-12-1997, 11-9-1997, 11-9-1997 and 19-9-1997.

3. Facts and grounds are identical, reliefs claimed in these applications are more or less similar, hence, all these applications were clubbed, heard and are being disposed off by this Common Order.

4. Facts in OA.No.682 OF 1997.

There are 10 applicants in this OA. Applicants 1,2, 4, 8 and 10 were appointed as R.T.P.Postal Assistants in the year 1981. The applicants 3 and 5 were appointed in the year 1982. The applicants 6,7 and 9 were appointed in the year 1983. The applicants 1,2,4 and 6 were regularised in the year 1986. The applicant no.3 was regularised in the year 1988. Applicant No.5 was regularised in 1989. Applicants 7 and 9 were regularised in 1987. Applicant no.8 was regularised in the year 1983 and the applicant no.10 was regularised in the year 1987.

O.A.No.94 OF 1998.

There are 16 applicants in this OA. The applicants were initially appointed as RTP/SDPAs during the years 1981 and 1983 in Visakhapatnam Division. After undergoing the requisite training, they were regularised in the years 1987 to 1990, and 1983. The details of the date of appointment and regularisation are not furnished in the OA.

O.A.No.380 OF 1998:

There are eight applicants in this OA. They have been working as Postal Assistants in various post offices in Vijayawada Division. Applicants 1,3 and 7 were initially appointed as RTP/SDPAs in the first half of 1981. They were regularised on 30-12-1988, 3-2-1989 and 3-2-1988. The applicants 1 and 2 were initially appointed in RMS 'Y' Division and were transferred to Vijayawada Division. Applicant no.2 was appointed as RTPPA in the second half of 1982 and was regularised on 22-9-1987. Applicants 4 and 5 were appointed in the first half of 1983 and were regularised on 19-5-1989. Applicants 6 and 8 were appointed on 7-5-1983 and 30-6-1983 as RTPPAs and were regularised on 1-7-1988, and 1-4-1990.

O.A.No.381 OF 1998:

There are 19 applicants in this OA. They are presently working as Postal Assistants in Hyderabad City Division, Hyderabad. The applicants 1 and 2 were appointed as RTPPAs in July, 1981 and were regularised in August, 1983. Applicants 3 to 6 were appointed in June of 1981, July of 1981 and August of 1981, and were regularised in May, 1982, November, 1983, and December, 1983. Applicant no.7 was appointed in July, 1983 and was regularised in November, 1989. Applicant no.8 was appointed in July, 1982 and regularised in May, 1983. The applicants 9 and 10 were appointed in July, 1983 and May, 1983 and were regularised in November, 1985

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and December, 1989. The applicants 11 and 12 were appointed during the first half of 1980 and were regularised in August, 1982. Applicant no.13 was appointed on 15-6-1980 and was regularised on 3-10-1981. Applicant no.14 was appointed in May, 1983 and was regularised in 1989. Applicant no.15 was appointed during the second half of 1980, and was regularised on 27-2-1982. Applicant no.16 was appointed on 1-7-1981 and was regularised on 21-2-1982. Applicants 17, 18 and 19 were appointed in 1981 and 1983 and were regularised in 1983 and 1989.

D.A.No.382 OF 1998:

There are 12 applicants in this DA. They were initially appointed as RTPs/SDSAs in the year 1982 1983, after undergoing training. They were regularised in the years of 1988, 1989 and 1990, without taking into consideration their earlier RTP/SDSA services. The applicant no.1 was appointed on 28-3-1983 and was regularised on 19-12-1988. Applicant no.2 was appointed on 20-12-1982 and regularised on 19-11-1989. He was transferred from RMS, Cuddapah to Head Post Office, Cuddapah. Applicant no.3 was appointed in the year 1982 and was regularised on 15-2-1989, and he was transferred from RMS AG Division, Guntakal to Head Post Office, Dharmavaram. Applicant no.4 was appointed on 30-6-1983 and was regularised on 29-11-1989. Applicants 5 and 7 were appointed on 28-3-1983 and were regularised on 27-1-1989 and 2-1-1990. Applicant no.6 was appointed on 20-8-1983 and was regularised on 1-3-1989. Applicant no.8 was

appointed on 3-11-1982 and was regularised on 27-7-1989. Applicant no.9 was appointed on 23-8-1982 and was regularised on 7-7-1989. He was transferred from RMS AG Division, Guntakal to Head Post Office, Rajampet. The applicants 10, 11 and 12 were appointed in the year 1983, and were regularised in November, 1989.

5. The reliefs claimed in these OAs are identical. Hence, the reliefs claimed in OA.No.382 of 1998 are reproduced herein below:

- i) " To declare that the inaction of the respondents herein in regularising the services of the applicants from the date of initial appointment as illegal, arbitrary and discriminatory, and violation of Fundamental Rights of the Applicants;
- ii) To declare that the applicants have worked continuously and regularly and without any break from the date of initial appointment as RTP/SDSAs in the year of 1982, and 1983, and worked 240 days in each and every year till the date of regularisation in the year of 1988, 1989 and 1990 as RTP/SDSAs, and other consequential benefits i.e., revision pay and promotion, service seniority and other allowances including arrears on par with regular Sorting Assistants; and
- iii) Consequently direct the respondents to regularise the services of the applicants with reference to the date of initial appointment from the year of 1982, and 1983 and grant other consequential benefits i.e., revision pay, HRA, TA and DA, Bonus, and other allowances, and promotions on par with regular Sorting Assistants and Postal Assistants according to the rules and regulations including arrears."

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6. The applicants submit that they were selected as RTP PAs on merit, underwent training and had worked 8 hours per day from the date of initial appointment till the date of their regularisation. They submit that they were paid wages on hourly basis without fixing their pay on par with the regular Postal Assistants, that they were not paid House Rent Allowance, TA and DA, and productivity linked bonus. They submit, they worked eight hours per day for more than 240 days in a particular year since their initial appointment.

7. They submit that the respondents introduced RTP Scheme in the year 1981. Certain Postal Employees Union had challenged the said Scheme as illegal.

8. By Proceedings No.82/CAT/91, dated:11-2-1997 (Annexure.I, page.9 in the OA.No.682 of 1997), the respondent no.5 informed the applicants 1 and 5, and one N.V.Sitaramaiah to the effect that there was no provision for regularising the services rendered by an RTP PA and no Order of the C.A.T., to that effect was available.

9. They claim they were eligible to be regularised with effect from the date of their initial appointment with all consequential benefits.

10. They submit that the respondents regularised their services from 1986 onwards without counting the RTP/SDPA service and without revision of pay and other benefits.



11. They also reply on the RTP Scheme of 1980 issued by Circular No.60/36/80 SPB.1, dated:30-10-1980. They submit that the respondents have not followed the said Scheme while regularising their services. They contend non-regularisation is violative of Articles 14 and 16. They submit that the introduction of RTP Scheme was itself illegal.

12. They further submit that the RTP Scheme is provided for utilisation of the service for One year in place of regular Postal Assistants and the Scheme was subject to review after One year. They submit that the review as contemplated in the Scheme was not taken up by the respondents.

13. The Scheme had not provided separate rules for their recruitment as RTP PAs. They were selected and recruited on the same lines as the regular Postal Assistants. Thus they contend that they are governed by the regular recruitment rules.

14. They submit that the Scheme does not envisage the exclusion of the services rendered by them in RTP or SDA, while regularisation.

14(a) The scheme has not provided any understanding regarding RTP/SD service in case RTPPA/SDPA is continued to work beyond One year and that the respondents have not regularised their services in accordance with the Scheme.

15. They rely upon the Order dated:16-12-1986 in TA.No.82 of 1986 on the file of the Jabalpur Bench of this Tribunal. They submit that, similar applications filed before this Bench, and those applications were also decided relaying upon the Order in TA.No.82 of 1986.

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16. They rely on the Order dated:17-5-1994 in OA.No.736 of 1991 on the file of the Jabalpur Bench of this Tribunal, Order dated:8-2-1996 in OA. No.1410 of 1995 of the Ernakulam Bench of this Tribunal, and also the Order dated:27-6-1997 in OA.No.795 of 1997. They rely on the Judgment in Writ Petition Nos.1119 of 1986, 1276 of 1986, 1723 of 1986 and 1624 of 1986, dated:29-11-1989/^{of} the Hon'ble Supreme Court.

17. The respondents have filed their counter in OA. No.682 of 1997, 94 of 1998 and 380 of 1998 on the same lines. They have not filed any counter in OA.No.381 and 382 of 1998.

18. During the course of arguments they relied upon the reply filed in OA.No.682 of 1997. Hence, we feel it proper to refer to their reply in OA.No.682 of 1997.

19. ^{respondents} The/dispute the number of days the applicants ^{initial} worked after their/appointment. They contend that the applicants had not worked for 240 days in any particular year after their appointment. The very fact that they were under Reserved Trained Pool, was that they were required to work in case of emergency and in case of absentism of the regular Postal Assistants. Further they submit that at the time of empanelling them in the select list, the respondent-authorities had clearly informed the applicants that they were required to work only in cases of emergency and in case of any regular Postal Assistant proceeding on leave. The respondents ^{the} have given/details of the appointment and regularisation of the applicants in OA.No.682 of 1997. They/dispute

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that the applicants had worked eight(8) hours per day since their initial appointment. The applicants 1 to 5, 6 and 8 had not worked continuously for more than 240 days in each year from the date of initial appointment as RTP PAs till the date of regularisation, and that the applicants 7, 9 and 10 came to the Division on transfer as regular Postal Assistants. Further they submit that since the applicants have worked as RTP PAs till their regular appointment, they are not eligible for the benefits claimed by them.

19(A). In the reply filed by the respondents in OA.No.94 of 1998, they submit that the applicants 5, 7 and 13 came on transfer to Visakhapatnam Division from Rajahmundry and Kakinada Division on their own request under Rule 38 of the P&T Manual Volume.I, that at the time of appointment, the applicants were clearly informed that they would be placed in the RT Pool and would be absorbed as Postal Assistants against the regular vacancies in the recruitment unit over a period of 5 years, that particulars of the date of appointment of the applicants 1 to 4, 6 and 8 to 12, 15, 16 are detailed in page.3 of the reply, that as RTP PAs, the applicants had worked on hourly basis maximum eight hours per day, that the period of RTP service was not taken as a regular service, that there is no provision in the Scheme for reckoning the RTP service, that the scheme was not intended to utilise the service for One year and that the averments made by the applicants in the OA are not correct, that the candidates selected against RTP quota, wherein 50% of the applicants in the main select list meant for direct recruitment, that RTPs are also imparted training, that the RTPs would be regularised on their turn after the main list is fully exhausted and that presently there is a ban for recruitment.

19(B). In the reply filed in OA.No.380 of 1998, they submit that the dates of appointment of the applicants as RTP PAs are not available in the office, that the scheme does not provide for regularisation taking into consideration RTP service, that the claim of the applicants for reckoning their RTP service is not based on any rules.



20. The applicants contend that the respondents failed to absorb 50% of the posts from among RTP PAs/SDP PAs during the next year. The rule position is conceded by the respondents. However, in their counter they submitted that there was ban on recruitment and hence, the RTP PAs/SDP PAs could not be absorbed during the next year. As the averments in the reply were not clear, we by our Docket Order dated:1-3-1999 sought certain clarifications from the respondents. Accordingly, the Asst. Postmaster General (S&V), Office of the CPMP, AP Circle, Hyderabad, has sworn to an additional affidavit on 15-3-1999. The additional affidavit had been filed in OA.No.94 of 1998.

20(A). On going through the additional affidavit, we find that during the year 1982, eight candidates were selected under the main list and three candidates were selected against RTP quota, that all the three RTPs were absorbed in subsequent year, that during the year 1983, only RTPs were recruited as per the Advertisement dated:12-3-1983 issued by the Director of Postal Services, Vijayawada, that during 1983, no regular candidates were recruited and that in all 28 RTP PAs were recruited in the said year.

20(B). The ban was imposed on and from 3-1-1984. Hence, ~~no~~ RTP PAs/SDP PAs could not be absorbed till the ban was lifted by the Directorate. They further submit that the Director in his letter No.60-31/81-SPB.I, dated:26-8-1986, lifted the ban. However, all the RTPPAs/SDPPAs of the year 1983 were absorbed before 1990. Further they submit that as per the Directorate's letter No.60-31/81-SPB.I, dated:30-1-1986 all the RTPs recruited upto 1981 were absorbed and that between 1983 and 1990, no regular PAs were recruited.

20(C). On going through the additional affidavit submitted by the respondents, we are satisfied that there was no recruitment between the year 1983 and 1990, that the ban was imposed on 3-1-1984 against the recruitment of regular PAs, that the ban was lifted on and from 26-8-1986. The RTPs of the year 1983 were absorbed in the year 1990. In that view of the matter we find no substance in the contention of the applicants.

20(D). The respondents in support of their various contentions have relied on the decision of the Hon'ble Supreme Court in the case of UNION OF INDIA & ANOTHER Vs.

K.N.SIVADAS & OTHERS (reported in 1997(7) SCC, page.30) and the Order dated:27-10-1997 in OA.No.1499 of 1994 on the file of this Bench.

21. The applicants have filed their rejoinder stating that the respondents have not produced any proof to show that they had not worked 240 days in a particular year, that every employee, who has been recruited in a particular year is entitled for regularisation. The Hon'ble Supreme Court declared the mode of payment of wages on hourly basis and directed the respondents to pay the wages on par with the regular Postal Assistants. Further the Jabalpur Bench of this Tribunal in TA.No.82 of 1986, quashed the operation of RTP Scheme regarding payment of wages on hourly basis. The SLP (Special Leave Petition) against the said Judgment had been dismissed by the Hon'ble Supreme Court on 11-5-1988 (in Civil Appeal No.11313 of 1987), and even the Review Petition filed by the respondents was also dismissed. Hence, the respondents were duty bound to give effect to the decision in TA.No.82 of 1986, which was confirmed by the Hon'ble Supreme Court.

22. They submit that the decision dt:1-8-1997 of the Hon'ble Supreme Court is prospective in nature and is not attracted to the facts and circumstances of these cases.

23. The applicants in these OAs were initially appointed as RTP/SD Postal Assistants. No doubt they were subjected to selection examination and they were imparted training before posting them as RTP PAs. RTP/SDPAs are empanelled only to secure their services in the case of emergency and as leave substitutes. The applicants have submitted that they have worked 240 days in a particular year since their initial appointment. When the applicants have approached this Tribunal, it is for them to place convincing material to substantiate their contention that they have worked 240 days in a particular year since their engagement. The very fact that they were expected to render their service during emergency and during the leave period of the regular Postal Assistants, they cannot be regarded as regular employees. In view of the decision of the Supreme Court regarding payment of their wages, the respondents are at liberty to consider their grievances, if any.



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23(A). The learned Counsel for the applicants relied upon the Rules for recruitment to the RMS Sorters and Clerks in the Indian Posts and Telegraphs Department (Appendix-10 to the P & T Manual (Vol.IV), 5th Edition (Page.No.9)) and further they submitted that the provisions of Learners Scheme and appointment of Short Duty Staff are also applicable to the RMS Wing. Thus they submit that under the Scheme they were also imparted training before empanelling.

The RTP Scheme was set up in October, 1980, vide Circular bearing No.60/36/80-SPB.I, dated: 30-10-1980 (Annexure.I to the Rejoinder), issued by the Director General of Indian Posts & Telegraphs Department. This scheme was formed for constitution of standing pool of trained reserved candidates for paid RMS offices.

23(B). This scheme was in operation till 4-3-1986 when the scheme was abolished. The initial creation of reserved pool was on the basis of the 50% of the notified vacancies. During 1982, the percentage of RTP was reduced to 15% of the notified vacancies. After abolition of the scheme, the RTP PAs/SDPAs have been absorbed as regular employees on various dates from 1988 to 1990.

23(C). Though the applicants were empanelled initially as RTP PAs/SD PAs after undergoing training, their engagement was only during emergency or during leave of absence of the regular employees. Hence, they cannot claim for regularisation from the stage of initial appointment as RTP PAs/SD PAs.

23(D). It is the contention of the applicants that the Scheme 1980 is not in consonance with the recruitment rules. We feel the Scheme was intended to tide over the exigency of duties of postal Assistants in cases of emergency and/or during the leave of absence of the regular employees. The Scheme provided for absorption against regular vacancies. In the first instance it was against 50% of the regular vacancies, and subsequently, it was reduced to 15%. The respondent-authorities have regularised/absorbed all the RTP PAs/SD PAS upto 1990.

23(E). In our humble view, the Scheme 1980 is scheme separate and distinct itself. The applicants who were empanelled under the Scheme cannot compare their cases with the recruitment rules. The rules and the Scheme 1980 cannot be compared. Merely, because RTP PAs/SD PAs were imparted training before empanelment, they cannot urge that they were appointed as such by following the recruitment rules, or they cannot make grievance that the Scheme 1980 was not in consonance with the recruitment rules. The recruitment rules are meant for regular appointment whereas the Scheme 1980 was introduced only to maintain the level of work in cases of emergency, or during the leave of absence of regular PAs

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24. The Hon'ble Supreme Court in the case of UNION OF INDIA Vs K.N.SIVADAS & OTHERS had clearly considered the Scheme applicable to RTP PAs. In paras 9 to 13, the Hon'ble Supreme Court has observed as under:-

"9. The position of RTPs is quite different. In the first place, the very scheme which constituted RTPs provided for their absorption as regular employees. With this in mind, they were also given the same training as regular employees. They were required in the meantime, to carry out short-term duties or to handle peak hour traffic on an hourly wage basis. However, there was clear assurance in the scheme that they would be accommodated in future vacancies as regular employees in the manner set out in the scheme. We are informed that there was a backlog in absorption because of a ban on recruitment during certain years. All the RTP employees have been absorbed as regular employees by 1990. Some of the respondents who are before us have been absorbed much earlier, in the year 1988. Therefore, they are in a much better position than casual labourers and are now enjoying all the benefits of regular employment. Their claim relates to the period prior to their absorption. The entire period in effect, is either prior to 1988, or in the case of some of the respondents, prior to January, 1990. The benefits which they claim are the benefits which have been conferred on casual labourers only after 29-11-1989. The respondents, however, are claiming these benefits for earlier periods. (In respect of those respondents who were absorbed in January, 1990, their continuation as RTPs after 29-11-1989 is only of two months' duration.) In other words, RTPs are claiming benefits for

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a period for which a similar benefit has not been conferred on casual labourers under the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme.

10. The Tribunal, in our view, has erred in equating RTPs with casual labourers. The position of these two categories of employees is very different as we have already set out. The Tribunal has also erred in assuming that casual labourers are getting these benefits during the period for which the RTPs are claiming these benefits. RTPs have already obtained the benefit of absorption in regular service because of their own scheme. They, therefore, cannot, on the one hand, avail of their own special scheme and at the same time, claim additional benefits on the basis of what has been given to the casual labourers. This is unwarranted, especially as the period for which they claim these benefits is the period during which such benefits were not available to casual labourers.
11. Among the various benefits the Tribunal gave to the respondents (RTPs) productivity-linked bonus if they had put in, like casual labourers, 240 days of service each year for three years or more on the basis of its judgment in OAs Nos. 612 and 171 of 1989. The appellants have submitted that although the order in these two OAs was not challenged in appeal, it should not be automatically made applicable to all RTPs. The appellants have relied upon the observations of this Court in State of Maharashtra v. Digambar to the effect, inter alia, that non-filing of an appeal

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before this Court by the State in similar matters, by itself cannot operate as a fetter for this Court in entertaining special leave petitions subsequently filed even if they are considered as relating to similar matters when this Court finds that the relief which was granted was wrong; specially when there is every possibility that such relief may continue to be granted to other complainants who may go before that forum, which may ultimately result in a big financial loss to the State. There is substance in this submission because we find that the reliefs which were granted by the Tribunal are wholly unwarranted, looking to the service conditions of RTPs as compared to the service conditions of casual labourers.

12. In CAs Nos.124-125 of 1996 the respondents originally worked as Telegraph Assistants in various Central Telegraph Offices in their reserved trained pool and were absorbed in regular service in 1992. In their Department, the scheme of temporary status and regularisation for casual labourers has come into effect from 1-10-1989. Their case is no different from the case of other RTPs although undoubtedly, they have been regularised a little later. As stated above, the position of RTPs is very different from the position of casual labourers and the Tribunal could not have equated the two.

13. In CAs Nos.127-130 of 1996 the RTPs who have been regularly absorbed in the year 1988 have been given the benefit of counting their service as RTPs for the purpose of their eligibility to appear for the departmental examination. The relevant rule provides



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that the candidates "must have put in at least 5 years' continuous satisfactory service in one or more eligible cadres" before they can appear for the examination. The eligibility is related to five years' service in the cadre. Any service which was rendered prior to regular appointment in the cadre, cannot count for the purpose of this rule because it cannot be considered as service in any eligible cadre. The Tribunal was, therefore, wrong in granting to RTPs the benefit of service rendered by them prior to their regular appointment, for the purpose of their eligibility to appear for the departmental promotion examination."

25. From the above, it is clear that the Hon'ble Supreme Court wanted to set aside certain Orders of the other Benches of this Tribunal, as regards the regularisation and/or counting RTP service of a Postal Assistant. In this view of the matter, we feel duty bound to follow the decision of the Hon'ble Supreme Court in the case of UNION OF INDIA Vs K.N.SIVADAS & OTHERS.

26. In the case of SUBHASH CHANDER AGGARWAL AND OTHERS Vs UNION OF INDIA & OTHERS(reported in 1998(2) CAT, page.419), the Chandigarh Bench of this Tribunal considered the claim of the applicants, who were similarly placed as the applicants herein, ~~and also~~ taking ~~into~~ note of the decision of the Principal Bench in OA.No.868/PB/88, decided on 27-7-1990, and also other similar cases disagreed with the view expressed by the ~~Full~~^{Principal} Bench and relying upon the decision of the Hon'ble Supreme Court cited above (in SHIVADAS's case) observed as under:-

"Having worked as per this Scheme they are now estopped from claiming the

benefit of equal pay for equal work. Even this doctrine of equal pay for equal work does not apply as per a catena of judgments in which the Hon'ble Supreme Court has held that persons who are not appointed against regular posts and where the modes of appointment are different, they will always be treated differently and the principle of equal pay for equal work shall, therefore, not operate. The Postal or RMS staff appointed as Grade-C against the regular vacancies have different kind of mode of appointment and conditions of service. They are liable to be transferred from one place to other and also to shoulder responsibilities of different kinds. The short duty staff appointed for a few hours in the day has no such liability of transfer or shoulder the responsibilities which a regular Clerk in the respondent department has to undertake. Thus, they cannot claim equal pay for equal work."

Thus the applicants cannot claim any benefit.

27. Further similar question came up for our consideration in DA.No.1499 of 1994. We took into consideration the principle enunciated by the Hon'ble Supreme Court in the case of UNION OF INDIA Vs K.N.SIVA-DAS and declined to grant the prayer in the DA.


28. In view of the latest pronouncement of the Supreme Court on the question of regularisation of RTP/SDPAs, we feel that earlier decisions of other Benches of this Tribunal are of no relevance.

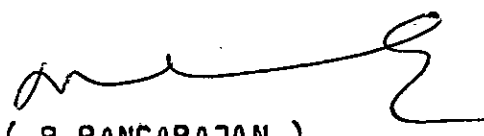


28. In this view of the matter, we feel that the applicants are not entitled to the reliefs claimed in these OAs.

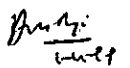
29. For the reasons stated above, we find no merits in these OAs and these OAs are liable to be dismissed.

30. Accordingly, all the OAs are dismissed. No Order as to costs.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDL)
31.3.99


(R. RANGARAJAN)
MEMBER (ADMN)

DATED: this the 31st day of _____, 1999


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