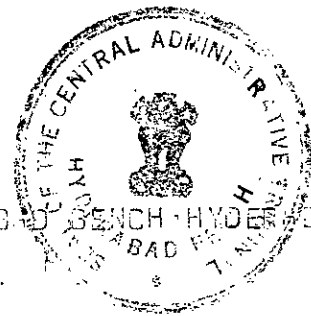


IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD:
AT HYDERABAD



C.A.NOs. 682 of 1997, 94 of 1998, 350 of 1998

381 of 1999 & 392 of 1998.

Date of Order: 31.3.99

C.A.NOs. 632 of 1997

BETWEEN:

1. N.V.S. Prakash Rao
2. Y. Kameshwar Rao
3. G. Santaram
4. AV.V.S.N. Padmavathi
5. M. Nagarao

6. A. Jagannadhacharyulu
7. K.S. Ramalingeswar Rao
8. K.V.V. Satyanarayana
9. V. Sai padma
10. V. Venkanna

... Applicants

And

1. Union of India, represented by its Secretary, Department of postal New delhi.
2. The Director General, Postal, C.G.C. Complex, New delhi.
3. The Chief Postmaster General, Andhra Pradesh Circle, Hyderabad.
4. The Postmaster General, Visakapatnam Region, Visakapatnam District.
5. Superintendent of post offices, Amalapuram Division Amalapuram, West Godavari, District

... Respondents

CA.No. 94 of 1998

BETWEEN

- | | |
|-----------------------------|-------------------------|
| 1. D. Parameswara Rao | 9. S. Laxmana Dora |
| 2. S. Krishna Murthy | 10. K. Vara Prasada Rao |
| 3. A.V. Sudha Rani | 11. S. Samuel John |
| 4. G. Sri Reja Rajeswari | 12. N. Visalakshmi |
| 5. P. Venkata Vijaya Kumari | 13. E. Sarada Kumari |
| 6. K. Aruna | 14. M. Aruna Jyothi |
| 7. A. Siva Parvathi | 15. V. Bala Kameswari |
| 8. K. Manikyan | 16. A. Naga Raja Rao |

... Applicants

And

1. The Union of India, represented by its Secretary Department of postal Services, New delhi.
2. The Director General (Postal Services), C.G.C. Complex New delhi.
3. The Chief Postmaster General Hyderabad.
4. The postmaster General Visakapatnam Division, Visakapatnam
5. Sr. Superintendent of post offices, Visakhapatnam

... Respondents

Contd.....2

G.A. NO. 380 of 1996

BETWEEN:

- | | |
|-------------------------|-------------------------|
| 1. P. Narasimha Rao | 5. S. Poornachandra Rao |
| 2. Smt. B. Adema | 6. M. Joshua Naik |
| 3. Smt. K. Kanda Kumeri | 7. K.S.R. Anjeneyulu |
| 4. T.D. Nareekshana Rao | 8. A. Srinivasan |

....Applicants

And

1. 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 Postmaster General, A.P. Circle, Hyderabad.
4. The Postmaster General, Vijayawada Region Vijayawada-1.
5. The Senior Superintendent of post offices Vijayawada Division, Vijayawada.

....Respondents

G.A. NO. 381 of 1996

- | | |
|-----------------------|-------------------------|
| 1. P. Uma Devi | 11. A. Syamala |
| 2. Y. Manoranjani | 12. D.N. Ramavardhanam |
| 3. P. Sikshapathi | 13. D. Vasantha Kumar |
| 4. A.K. Diwakar | 14. D. Durga Devi |
| 5. N. Chandra Sekhar | 15. D. Revathi |
| 6. K. Mahendar | 16. CH. Siveramakrishna |
| 7. K. Sashi Kala | 17. K. Nagabhushanam |
| 8. P. Chanshi Lakshmi | 18. B. Sarala Devi |
| 9. B. Indrasena Reddy | 19. Mogal Saleha Baig |
| 10. T. Swarna Latha | |

... Applicants

And

1. Union of India, rep. by Secretary Ministry of Communications New delhi
2. The Director General (Postal) CGO, complex, New delhi
3. The Chief Postmaster General A.P. Circle, Hyderabad.
4. The Superintendents of post offices, Hyderabad City Division Hyderabad
5. The Director of Accounts (Postal) Hyderabad.

...Respondents

G.A. NO. 382 of 1998

BETWEEN:

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

...Applicants

And

1. Union of India rep.by its Secretary Ministry of Communications New delhi.
2. The Director General (Postal) CGO Complex, New delhi
3. The Chief Postmaster General AP.Circle, Hyderabad.
4. The Superintendent of post offices, MS, AG Division, Sunkal.
5. The Superintendent of post offices, Cuddapah, Cuddapah(DT)
6. The Superintendent of post offices Hindupur Division, Hindupur Anantapur(CT)

...Respondents

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

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

COUNSEL FOR THE RESPONDENTS : : Mr. J.R.Gopal Rao (IA No 380/1998)

COMMISSION:

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

AND

THE HON'BLE SRI. C.S.JAI PARAMESHWAR : MEMBER (JUDL)

COMMON ORDER

(PER HON'BLE SRI C.S JAI PARAMESHWAR: MEMBER (JUDL))

Heard Mr. S. Saida 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 CA.No. 380 of 1998.

2. These applications are filed under Section 19 of the Administrative Tribunal Act. They were filed on 29-4-1997, 11-9-1997, 11-3-1997 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 A.N.552 of 1997

There are 10 applicants in this CA. Applicants 1,2,4,6 and 10 were appointed as P.T.O. 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 No5 was regularised in 1989.

.....Contd---&

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.

There are 16 applicants in this OA. The applicants were initially appointed as RTP/SDPAs during the year 1981 and 1983 in Visakapatnam Division. After undergoing the requisite training, they were regularised in the years 1987 to 1990, and 1993. The details of the date of appointment and regularisation are not furnished in the SG.

CA.NO. 388 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 RTPA 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 RTPAs and were regularised on 1-7-1988, and 1-4-1990.

CA.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 RTPAs 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 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 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.

Contd....5

Applicant No 16 was appointed on 1-7-1931 and was regularised on 21-2-1932. Applicants 17, 18 and 19 were appointed in 1931 and 1933 and were regularised in 1933 and 1939.

O.A.No. 382 of 1998

There are 12 applicants in this OA. They were initially appointed as RTP/SDSAs in the year 1932-1933, after undergoing training. They were regularised in the year of 1938, 1939 and 1990, without taking into consideration their earlier RTP/SDSA services. The applicant No.1 was appointed on 26-3-1932 and was regularised on 19-12-1939. Applicant No.2 was appointed on 20.12.32 and regularised on 19-11-1939. He was transferred from RMS Cuddapah to Head post office Cuddapah. Applicant No3. was appointed in the year 1932 and was regularised on 15-2-1939, and he was transferred from RMS AG Division, Guntakal to Head post office, Dharmavarum. Applicant No4 was appointed on 30-6-1933 and was regularised on 29-11-1939. Applicants 5 and 7 were appointed on 28-3-1933 and were regularised on 27-1-1939 and 2-1-1990. Applicant No.6. was appointed on 23-8-1933 and was regularised on 1-3-1939. Applicant no.8 was appointed on 3-11-1932 and was regularised on 27-7-1939. Applicant No.9 was appointed on 23-8-1932 and was regularised on 7-7-1939. He was transferred from RMS AG Division Guntakal to Head post office, Rajampet. The applicants 10, 11 and 12 were appointed in the year 1933 and were regularised in November '09.

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

- i) " To declare that the inaction of the respondents herein regularising the service 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 1932, and 1933, and worked 240 days in each and every year till the date of regularisation in the year of 1938, 1939 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

Contd... 6.

- 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."
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. B2/CAT/91, dated 11-2-1997 (Annexure I page 9 in the SA.No.602 of 1997), the respondents 5 informed the applicants 1 and 5 and one MV.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 1985 onwards without counting the RTP/SOPA service and without revision of pay and other benefits.
11. They also rely 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.

Contd....7.

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 As. 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 service rendered by them in RTP or SCA, while regularisation.
- 14(a) The scheme has not provided any understanding regarding RTP/SD service in case RTP/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 application filed before this Bench, and those applications ~~xxxxxx~~ were also decided relying upon the order in TA No. 82 of 1986.
16. They rely on the order dated:17-5-1994 in CA.No.736 of 1991 on the file of the Jabalpur Bench of this Tribunal, order dated 8-2-1996 in CA No.1410 of 1995 of the Ernakulam Bench of this Tribunal, and also the order dated:27-6-1997 in CA.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 CA.No.682 of 1997,94 of 1998 and 380 of 1998 on the same lines. They have not filed any counter in CA.No. 381 and 382 of 1998.
18. During the course of arguments they relied upon the reply filed in CA.No. 682 of 1997. Hence, we feel it proper to refer to their reply in CA.No.682 of 1997.
19. The respondents dispute the number of days the applicants worked after their initial appointment. They contend that the applicants had not worked for 240 days in any particular year after their appointment.

Contd....8.

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 absenteeism of ~~xxxxxx~~ 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 have given the details of the appointment and regularisation of the applicants in OA.NO. 632 of 1987. They dispute 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 1990, 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 ~~xxxt~~ 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.

Contd... 9.

19(B) In the reply filed in OA.NO 300 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 (SAV), Office of the CIMP, AP Circle, Hyderabad has sworn to an additional affidavit on 15-3-1999. The additional affidavit has 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 23 RTP PAs were recruited in the said year.

20(B) The ban was imposed on and from 3-1-1984. Hence 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 26-3-1986, lifted the ban. However, all the RTP PAs/SDP PAs 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 26-3-1986. 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.

Contd... 10.

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. SIVADA & OTHERS (reported in 1997 (7) SCC, page 30) and the order dated 27-10-1997 in JA.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 regularization. The Hon'ble Supreme Court declare 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 TANJ.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 11-5-1993 (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 TANJ.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~~ 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 RAs. RTP/SDRAs 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 applicant 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 grievance, if any.

23(A). The learned counsel for the applicants relied upon the rules for recruitment to the RMS sorters and Clerks in the India Post 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. 60/36/80-3.13.1 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 1980 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 up to 1990.

23(E) In our humble view, the scheme 1980 is a 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.

Contd...12.

or they cannot make grievance that the scheme 1989 was not consonance with the recruitment rules. The recruitment rules are meant for regular appointment whereas the scheme 1989 was introduced only to maintain the level of work in cases of emergency, or during the leave of absence of regular PAs.

24. The Hon'ble Supreme Court in the case of UNION OF INDIA VS K.M. SIVDAS & 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.)

Contd...13.

In other words, RTPs are claiming benefits for a period for which a similar benefits 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 benefits 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 No. 612 and 171 of 1939. 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 before this Court by the State in similar matters, by itself cannot operate as a bar for this court in entertaining special leave petitions subsequently filed even if they are considered as relating to similar matter 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 ~~xxx~~ 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 GAs Nos. 124-125 of 1996 the respondents originally worked as Telegraph Assistant in various Central Telegraph Office in their reserved trained pool and were absorbed in regular service in 1982. In their Department, the scheme of temporary status and regularisation for casual labourers has come into effect from 1-10-1980. 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 GAs Nos. 127-130 of 1996 the RTPs who have been regularly absorbed in the year 1980 have been given the benefit of counting their service as RTPs for the purpose of their eligibility to appear for the departmental examinations. The relevant rule provides 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 benefits 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.H. SIVADAS & OTHERS.

26. In the case of SUSHASH 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 taking note of the decision of the principal Bench in CA.No. 868/PB/88, decided on 27-7-1990, and also other similar cases disagreed with the view expressed by the 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 appointments 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~~ responsibilities which a regular Clerk in the same, 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 CA.No.1499 of 1994. In that case, the Tribunal held that the principle applied by

We took into consideration the principle enunciated by the Hon'ble Supreme Court in the case of UNION OF INDIA Vs K.N. SIVADAS and declined to grant the prayer in the CA.

20. 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.
29. In this view of the matter, we feel that the applicants are not entitled to the reliefs claimed in these OAs.
30. For the reasons stated above, we find no merits in these OAs and these OAs liable to be dismissed.
31. Accordingly, all the OAs are dismissed. No order as to costs.

Sd/-xxxxx
Section Officer.

प्रमाणित प्रति
CERTIFIED TRUE COPY

क्रम संख्या

CASE NUMBER

निर्णय दिनांक

DATE

प्रति पत्र

COPY

0A 682/97 C Kuley

31.3.95

22.6.95

Section Officer
Court Officer
Administrative Tribunal
HYDERABAD BENCH.