CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA/020/00437/2015, OA/020/00432/2015, OA/020/00433/2015, OA/020/00434/2015 & MA/020/00819/2018, OA/020/00435/2015, OA/020/00436/2015 & MA/020/00805/2018, OA/020/00438/2015 & MA/020/00828/2018 AND OA/020/00439/2015

Date of Order : 12-04-2019

OA No.437/2015

Between :

B. Krupadanam S/o Danappa,
Aged 42 years, D.No.12/271-A,
Satyanarayanapet,
Occ: Provisional GDS Mailman, RMS AG-Dn,
Guntakal-515801. ....Applicant

AND

1. The Union of India,
   Rep by The Chief Postmaster General,
   A.P.Circle, Hyderabad-500001.

2. The Postmaster General,
   Kurnool Region, Kurnool.

3. The Superintendent,
   RMS AG-Dn, Guntakal.

4. The Head Record Officer,
   RMS, AG-Dn, Guntakal. ...Respondents

Counsel for the Applicant: Mr.B.Gurudas
Counsel for the Respondents : Mr.A.Radhakrishna, Sr PC for CG

OA No. 432/2015

Between :

K.Narayana Swamy,
Aged 40 years, Occ : Provisional GDSMM,
RMS AG-Dn,R/o H.No.17/1075-DI,
Indira Nagar,
Guntakal, Anantapur Dist. ....Applicant

AND

1. The Union of India,
   Rep by The Chief Postmaster General,
   A.P.Circle, Hyderabad-500001.

2. The Postmaster General,
   Kurnool Region, Kurnool.

3. The Superintendent,
   RMS AG-Dn, Guntakal.

4. The Head Record Officer,
   RMS, AG-Dn, Guntakal. ...Respondents

Counsel for the Applicant: Mr. B. Gurudas
Counsel for the Respondents : Mrs. K. Rajitha, Sr. CGSC

OA No.433/2015

Between :

D.Gulappa S/o D.Basappa,
Aged 43 years, Occ : Provisional GDSMM,
HRO AG-Dn,D.No.12/489,
Satyanarayanapet, Guntakal. ....Applicant

AND

1. The Union of India,
   Rep by The Chief Postmaster General,
   A.P.Circle, Hyderabad-500001.

2. The Postmaster General,
   Kurnool Region, Kurnool-518002.

3. The Superintendent,
   RMS AG-Dn, Guntakal-515801.

4. The Head Record Officer,
   RMS, AG-Dn, Guntakal-515801. ...Respondents

Counsel for the Applicant: Mr. B. Gurudas
Counsel for the Respondents : Mrs.K.Rajitha, Sr.CGSC

OA No.434/2015 & MA No.819/2018

Between :

G.Sankar S/o Late G.Veeranna,
Aged 42 years, Occ : Provisional GDSMM,
RMS AG-Dn,R/o H.No.2-614,
Modinabad,
Guntakal, Anantapur Dist. ....Applicant

AND

1. The Union of India,
   Rep by The Chief Postmaster General,
   A.P.Circle, Hyderabad-500001.

2. The Postmaster General,
   Kurnool Region, Kurnool.

3. The Superintendent,
   RMS AG-Dn, Guntakal.

4. The Head Record Officer,
   RMS, AG-Dn, Guntakal. ...Respondents

Counsel for the Applicant: Mr.B.Gurudas
Counsel for the Respondents : Mr.P.Krishna,Addl CGSC

OA No.435/2015

Between :

A.Somesh S/o A.Sanjappa,
Aged 40 years,
H.No.18/318, Near T.V.Station,
Occ : Provisional GDS Mailman,
RMS AG-Dn, Guntakal ....Applicant

AND

1. The Union of India,
   Rep by The Chief Postmaster General,
   A.P.Circle, Hyderabad-500001.

2. The Postmaster General,
   Kurnool Region, Kurnool.

3. The Superintendent,
   RMS AG-Dn, Guntakal-515801.

4. The Head Record Officer,

RMS, AG-Dn, Guntakal-515801. ...Respondents

Counsel for the Applicant: Mr. B. Gurudas
Counsel for the Respondents : Mrs. K. Rajitha, Sr.CGSC

OA No.436/2015 & MA No.805/2018

Between :

K.Kullai S/o K.Kullai swamy,
Aged 38 years,
H.No.2/465, Modinabad,
Occ : Provisional GDS Mailman,
RMS AG-Dn, Guntakal. ....Applicant

AND

1. The Union of India,
   Rep by The Chief Postmaster General,
   A.P.Circle, Hyderabad-500001.

2. The Postmaster General,
   Kurnool Region, Kurnool.

3. The Superintendent,
   RMS AG-Dn, Guntakal-515801.

4. The Head Record Officer,
   RMS, AG-Dn, Guntakal-515801. ...Respondents

Counsel for the Applicant: Mr.B.Gurudas
Counsel for the Respondents : Mrs.L.Pranathi Reddy, Addl.CGSC

OA No.438/2015 & MA No.828/2018

Between :

M.Gangadhar S/o M.Gangappa,
Aged 44 years,
Occ : Provisional GDS Mailman,
RMS AG Dn, R/o H.No.6/650,
Benchi Kottala, Guntakal-515801,
Anantapur Dist. ....Applicant

AND

1. The Union of India,
   Rep by The Chief Postmaster General,
   A.P.Circle, Hyderabad-500001.

2. The Postmaster General,
   Kurnool Region, Kurnool.

3. The Superintendent,
   RMS AG-Dn, Guntakal.

4. The Head Record Officer,
   RMS, AG-Dn, Guntakal515801. ...Respondents

Counsel for the Applicant: Mr. B. Gurudas
Counsel for the Respondents : Mrs.B.Gayatri Varma, Sr. PC for CG

OA No.439/2015

Between :

S.Muralidhar S/o S.Narasimhulu,
Aged 43 years, Occ : Provisional GDSMM,
RMS AG-Dn,DNo.17/107,
Near Chaitanya Talkies Street,
Guntakal, Anantapur Dist.

....Applicant

AND

1. The Union of India,
   Rep by The Chief Postmaster General,
   A.P.Circle, Hyderabad-500001.

2. The Postmaster General,
   Kurnool Region, Kurnool-518004.

3. The Superintendent,
   RMS AG-Dn, Guntakal.

4. The Head Record Officer,
   RMS, AG-Dn, Guntakal. ...Respondents

Counsel for the Applicant: Mr. B. Gurudas
Counsel for the Respondents : Mrs. K. Rajitha, Sr. CGSC

CORAM :

THE HON'BLE MR.JUSTICE L.NARASIMHA REDDY, CHAIRMAN
THE HON'BLE MRS.NAINI JAYASEELAN, ADMINISTRATIVE MEMBER

(Oral Order per Hon'ble Mr. Justice L.Narasimha Reddy, Chairman)

The applicants in these Original Applications were engaged as Extra-Departmental Mail Man (EDMM for short) in the Postal Department to work for five hours in a day. The initial engagement was in the year 1998 for a period of 90 days. It is stated that such an engagement is being continued for the past two decades. They approached this Tribunal by filing these batch of OAs with a prayer to declare the action of the Respondents (a) in not regularizing their services; and (b) in contemplating termination of their services ; as illegal, arbitrary and unconstitutional and violative of Articles 14, 16 and 21 of the Constitution of India. Other relevant directions were also sought for in the OAs.

2. The applicants contend that ever since they have been appointed in the service, they are being continued against clear vacancies. They state that on account of their continuance for such a longtime, they became entitled to be regularized in terms of directions of Hon'ble Supreme Court in Secretary, State of Karnataka & Others Vs. Umadevi & Others [2006 (4) SCC 1].

3. Respondents have filed three detailed counter affidavits in the OAs. They submit that the applicants were engaged to meet the immediate

needs of the department for some time and the regular appointment to the posts could not be made due to various reasons. It is stated that if one takes into account the nature of duties attached to the posts or the method of engagement of the applicants, the question of their being regularized does not arise. It is also stated in the reply that time and again the Hon'ble Supreme Court and High Courts held that the appointments of this nature cannot be regularized.

4. We heard Mr. B. Gurudas, learned counsel for the applicants and Mrs.K.Rajitha, learned Senior Central Govt., Standing Counsel and all other Standing Counsels for Respondents.

5. The initial engagement of the applicants was in the year 1998 as EDMM for a period of 90 days. The work was only for four to five hours. A typical order of engagement issued by the Respondents reads as under :-

" Government of India, Department of Posts

Office of the Head Record Officer, RMS.'G' – Dn., Guntakal-515 801.

Memo.No.HRO/ED/PA/I Dated at Guntakal-515801, the 1.12.97

WHERE AS the Post of EDMM for 5 hours has become vacant the undersigned has decided to make provisional appointment to the said post for a period of 90 days from 1-12-97 to 28.2.98.

2. Shri B.Krupadanam S/o Danappa Guntakal is offered the provisional appointment. He should clearly understand that the Provisional appointment will be terminated when regular appointment is made and he shall have no claim for appointment to any post.

3. The undersigned also reserves the right to terminate the provisional appointment at any time before the period mentioned in para 1 above without notice and without assigning any reasons.

4. Shri B.Krupa danam will be governed by the EXTRA DEPARTMENTAL AGENTS (Conduct and Service) Rules, 1964 as amended from time to time and all other rules and orders applicable to Extra Departmental Agents.

5. In case the above conditions are acceptable to Shri B.Krupadanam he

should sign the duplicate copy of this memo and return the same to the undersigned immediately.

Head Record Officer,

RMS.'G'-Dn.,Guntakal-515 801.

Copy of this memo is issued to

Shri B.Krupadanam, Guntakal.

HRO (A/Cs), RMS.G-Dn., Guntakal for necessary action.

The Superintendent, RMS 'G '-Division, Guntakal 1 w.r.t.

Their letter No.B/EDMM/DN/Vol.VI, dated 28-10-97.

O.A.6 of HRO Guntakal.

Office copy.

Spare.

Head Record Officer,

RMS.'AG'-Dn., Guntakal-515 801."

Though the applicants contend that they are being continued from time to time, there is nothing to show that they have been issued any orders of continuance or renewal of appointment. It appears that the applicants are continued continuously or with intermittent breaks. Either way, regularization of their services is not permissible in view of the law laid down by the Hon'ble Supreme Court in State of Karnataka Vs. Uma Devi [2006 (4) SCC 1]. It was held that, irrespective of the length of the temporary engagements, the question of regularization does not arise. The only exception pointed out is as regards the cases of employees who were appointed against regular vacancies. If they held requisite qualifications for the post concerned, and were appointed on temporary basis against a clear vacancy and he continued as such for a period exceeding 10 years, the permissibility of regularization was indicated. There again the discretion was given to employers to regularize the services as a one time measure.

6. In the instant case the engagement was in respect of a post for five hours in a day, for 90 days. It is not clear that any regular post of EDMM or its equivalent post exist in the Department at all. Unless these facts are clear before us, we find it difficult to undertake the adjudication of the issue.

7. However, it can be observed that, in case the Respondents intend to fill the posts held by the applicants on regular basis, the cases of the applicants shall also be considered in accordance with the prescribed procedure. If the relevant rules permit, the benefit of relaxation of age limits shall also be considered.

8. In OA No.267/2014, the Cuttack Bench of this Tribunal observed as under :-

> "6. We have heard the learned counsels from both the sides and perused the documents submitted by them. The present O.A is by way of a 3rd round litigation in this forum. Earlier, the applicant had filed O.ANos.690/99 and 604/2001 before this Tribunal. He had also filed Writ Petition (c) No.6529/04 and subsequently Contempt Petition bearing CONTC No.586/06. In compliance of the direction of the Hon'ble High Court in the aforesaid Contempt Petition, Respondent No.3 has passed the impugned order rejecting the claim of the applicant by holding that Substitutes have no legal claim and there can be no strict definition of the term "longer period" as absorption of substitutes per se in regular vacancy without following the prescribed procedure of recruitment would lead to nepotism. Respondent No.3 has quoted the judgment of the Hon'ble Apex Court in Debikak Guha (supra) and the order of the CAT, Madras Bench in P. Moorthy & Ors, vs. UOI to hold that persons who have entered service an continued contrary to or not in accordance with rules / guidelines / instructions should not be permitted to claim a right to

be regularized and that substitutes have no legal claim on the basis of having worked continuously. “

There are similar observations in other cases also.

9. Accordingly we dispose of the Original Applications declining the prayer for regularization of services of the applicants. We however observe that, in case the Respondents propose to fill the posts / vacancies against which the applicants are working, the cases of the applicants shall also be considered in terms of Recruitment Rules duly verifying the educational qualifications. However the applicants shall not be replaced by another set of temporary employees.

10. There shall be no order as to costs.

(NAINI JAYASEELAN) (JUSTICE L.NARASIMHA REDDY)
ADMINISTRATIVE MEMBER CHAIRMAN

vl