

**Central Administrative Tribunal
Madras Bench**

MA/310/00138/2014 (in)(&) OA/310/01160/2013

Dated 3rd January Two Thousand Nineteen

P R E S E N T

**Hon'ble Mr. P.Madhavan, Member(J)
&
Hon'ble Mr.T.Jacob, Member(A)**

P.Saravanan,
S/o S.Perumal,
No.3, Rajangam Street,
V.O.C.Nagar, Pammal,
Chennai 600 075. .. Applicant
By Advocate **M/s.R.Malaichamy**

Vs.

Union of India, rep by the
Senior Superintendent of Post Offices,
Tambaram Division,
Chennai 600 045. .. Respondent
By Adovacte **Mr.J.Vasu**

ORDER

[Pronounced by Hon'ble Mr.P.Madhavan, Member(J)]

This is an OA filed seeking the following relief:-

“To direct the respondent to grant temporary status to the applicant in the MTS cadre and to pass such further or other orders as this Tribunal may deem fit and proper in the circumstances of the case.”

2. The applicant is working as GDS Mail Packer at Polichalur Sub Office. He was employed by the respondents as an outsider Postman in the year 1999. He has been working in various capacities. He has been working as such for the last 12 years with intermittent breaks. According to him, he was appointed as such from time to time. In the year 1989 the department had made a scheme for casual labourers/outsiders for appointing them to the post of GDS, but still the department is appointing outsiders as GDS etc. The applicant states that he has completed more than 240 days of work. So he is entitled for absorption as GDS against vacancies arising in the department.

3. The OA was originally filed seeking absorption as GDS. But the OA was amended subsequently as per order in MA 138/2011 and now the applicant seeks only temporary status.

4. The respondents filed a reply denying the statements made in the OA. According to the respondents, the applicant is a substitute working in the leave vacancies in Postman/Group D posts in various Post Offices in Tambaram Division

without observing any recruitment formalities. So, applicant is only a substitute working on temporary basis and the applicant knows it that his engagement will be terminated at any time. According to the respondent, the Hon'ble Apex Court has held in various cases that outsiders engaged without following recruitment procedure cannot claim regularization. It was also held that such persons does not get any legal right to get absorbed into regular service. There exist rules for appointment of GDS which is governed by separate set of rules and there cannot be given any weightage for oursiders. The scheme made as per letter No.17-141/88/ED dated 06.6.1988 was made only for casual labourers like daily wagers, Mazdoors, Contingent paid substitutes etc. The applicant will not come under the definition of casual labourer. The applicant himself has admitted that he has put in 12 years service with intermittent breaks. The Directorate's order No.66-52/92-SPB I dated 01.11.95 relates only to casual labourers who were in employment as on 01.9.93 and completed 240 days of service for granting temporary status. So, the applicant is not entitled to get any relief as prayed for.

5. We have heard the counsel appearing for the applicant and counsel appearing for the respondents and perused the pleadings. The relief sought in the OA is to grant temporary status to the applicant in the MTS cadre. The counsel for the applicant mainly relies on the decision of this Tribunal in *OA 1298/13* and the decision of the Hon'ble High Court of Madras in *Union of India reported by Superintendent of Post Offices (West) Salem v. A.Suguna & the Registrar of CAT, Chennai reported in Manu/TN/2030/2005* in support of his contention that the scheme for granting

temporary status to be extended to him. But both the above decisions does not apply to the relief sought by the applicant in his case. The above decision mainly deals with absorption of casual labourers including GDS substitutes. But the counsel would content that the principle laid down in Suguna's case (referred supra) may be applied for giving temporary status to the applicant eventhough he became GDS outsider only in the year 1999. He had produced a list of GDS outsiders as Annexure A2. He seeks the extension of scheme for granting temporary status for applicant in this case following the decision in Suguna's case.

6. But the counsel for the respondent would content that the above decision relied upon by the applicant cannot be applied as even according to him, he came as GDS substitute only in the year 1999. As per casual labourers (Grant of Temporary Status & Regularization) Scheme, "temporary status" would be conferred on the casual labourers in employment as on 29.11.89 and who have rendered continuous service of atleast 1 year during the year they must have been engaged for a period of 240 days. For adopting the scheme, the applicant should have been a casual worker as on 29.11.89. Here the applicant began to work as GDS substitute only from 1999 onwards and the scheme for giving temporary status cannot be granted to the applicant (vide GOI, Department of Posts Lr. No.65-24/88 SPB 1 dated 17.5.89 produced as Annexure R1). On going through the pleadings of applicant it can be seen that he claims to have become a GDS substitute as per order of the department and not on the basis of the entrustment of work by a GDS who goes on leave. But the applicant has not produced any record to show that he was engaged by the

respondent as GDS substitute. So, the only inference that can be taken is that he was working as a GDS outsider as substitute and not engaged by the respondents. We find merit in the argument of the counsel for the respondent. The applicant is not entitled to get the benefit of scheme as claimed by him. In view of the above facts the applicant is not entitled to get temporary status in the MTS post as claimed by him. The scheme formulated by the postal department (Casual Labourers [Grant of Temporary Status & Regularization] Scheme) cannot help the applicant for getting temporary status.

7. Accordingly the OA will stand dismissed. No costs. MA also stands dismissed.

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

03.01.2019

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