
(2023) 07 CAT CK 0051

In the Central Administrative Tribunal

Case No : Original Application No. 180, 00655 Of 2020

Seyyad S

APPELLANT

Vs

Superintendent of Post Office, Thiruvananthapuram South
Postal Division, Thiruvananthapuram ? 695036 & Ors

RESPONDENT

Date of Decision : 24-07-2023

Acts Referred:

Citation : (2023) 07 CAT CK 0051

Hon'ble Judges : Sunil Thomas, Member (J)

Bench : Single Bench

Advocate : Vishnu S. Chempazhanthiyil, Thomas Mathew Nellimoottil

Final Decision : Dismissed

Judgement

Sunil Thomas, Member (J)

1. The applicant claims that he has been working in various capacities in Nemom Post Office since 2015. He has been continuously engaged as a part time sweeper since October, 2017. He had also worked during the relevant period as an outsider in leave vacancy of GDSMC/Postman in Nemom Post Office. He had continuously worked in leave vacancy as a Postman from May, 2018 to May, 2019. He claimed that he had completed 240 days services in the year 2018 and 2019. The applicant on the strength of Annexure A1 communication dated 6.6.1988 of the Director General of Posts claims that the applicant is entitled to be regularized since he has satisfied all the conditions prescribed in Annexure A1. He had submitted representations claiming regularization. Apprehending that he is likely to be relieved, the applicant has approached this Tribunal. The main prayer sought in the OA was to direct the respondents to consider the applicant along with the similarly situated contingent employees for appointment to any post of GDS in Thiruvananthapuram South Postal Division, in preference to open market candidates and to declare that the applicant is entitled to the benefit of Annexure A1 and direct the respondents to take action accordingly.

2. A detailed reply statement was filed traversing the various claims mentioned in the application. It was stated that the applicant was engaged only as a Substitute in leave/vacancies of delivery staff in different spells intermittently, whenever leave/vacancy arose in Nemom Post Office. Applicant was not working as casual labour in the Department from 2015. No full time/part time casual labourers were engaged in any of the post offices in Trivandrum South Division under the 1st respondent. As per the direction of the competent authority the absorption of full time casual labourers or part time casual labourers (FTCL/PTCL) who were engaged before 1.9.1993 was regularized as a onetime measure. There are no FTCL/PTCL working in the Division under the 1st respondent. He was working as a causal labour in the department from 2015. There is no part time contingent post at Nemom Post office and no one has been posted as part time contingent at Nemom SO.

3. Essentially the crux of the applicant's claim is that he has been working in various capacities since 2015. He was a part time sweeper since 2017. He claimed that he had also worked in leave vacancy as Postman from May, 2018 to May, 2019. Applicant is essentially relying on Annexure A1. Annexure A1 is a communication of the Director General of Post Offices which laid down the various segments of employees who were eligible for being regularized as per the Recruitment Rules. It included causal labourers and part time casual labourers. Admittedly, Annexure A1 is applicable to persons who had been engaged prior to the above period/extended period thereafter. It was asserted by the Department that applicant who has been engaged intermittently for various spells on stop gap basis during the period 2018-2019 cannot claim himself to be a casual labour and claim preference. Annexure A1 letter applies only in the case of persons who were appointed on or before 1.9.1993 which has been clarified by several decisions including the decision of the Hon'ble Supreme Court in State of Karnataka v. Uma Devi & Ors. (2006) 4 SCC 1.

4. Applicant has relied on Annexure A2 to A5 decisions which were decisions rendered by the Tribunal prior to Uma Devi's case (supra). It cannot in any manner help the applicant herein.

5. The above issue has consistently come up before this Tribunal earlier. In OA No. 143 of 2017, an identical claim set up by the applicants therein was considered in detail. It was contended therein that the issue of giving preference to casual labourers in the engagement of GDS as stipulated in Annexure A1 was only applicable to those who were engaged as casual labourers up to 29.11.1989. Later, the cut off for the benefit of granting temporary status to the full time casual labourers was extended up to 1.9.1993. Referring to various decisions of this Tribunal on the point, it was held that even the nomination of a person is only an authorized arrangement made by the regular incumbent which Department approves on each occasion, of such nomination, after due process of verification. The applicant was not a substitute of the regular incumbent intermittently.

6. Evidently, the applicant is not entitled for any benefit as claimed on the strength of Annexure A1 or the decisions referred to as Annexures A2 to A5. The Original Application fails and it is accordingly, dismissed. No costs.