

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/149/2021

HYDERABAD, this the 14th day of March 2022

Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr.B.V.Sudhakar, Admn. Member



1. V. Subramanyam Gr-C
S/o. V. Ramaiah
Aged 49 years, Occ: Casual Labourer,
HRO RMS TP Division,
Tirupati – 517 501, R/O Tirupati, A.P.
2. T. Armugam, Gr-C
S/o T. Chengalrayulu
Aged 51 years, Occ: Casual Labourer,
HRO RMS TP Division,
Tirupati – 517 501, R/O 6-11-56, Chenna Reddy Colony,
Tirupati, A.P.
3. P. Venkata Swamy, Gr-C
S/o P. Manikyam
Aged 51 years, Occ: Casual Labourer,
HRO RMS TP Division,
Tirupati – 517 501, R/o Tirupati, A.P.
4. C. Mohan Kumar, Gr-C
S/o C. Guntanna
Aged 48 years, Occ: Casual Labourer,
HRO RMS TP Division,
Tirupati – 517 501, R/o Tirupati, A.P.
5. V. Ellaiah, Gr-C
S/o V. Srinivasulu
Aged 49 years, Occ: Casual Labourer,
HRO RMS TP Division,
Tirupati – 517 501, R/o Tirupati, A.P.
6. S.K. Mahboob Basha, Gr-C
S/o S.K. Moula Ali Saheb
Aged 47 years, Occ: Casual Labourer,
HRO RMS TP Division,
Tirupati – 517 501, R/o Tirupati, A.P.
7. B. Sukumar, Gr-C
S/o B. Venkataiah
Aged 51 years, Occ: Casual Labourer,
HRO RMS TP Division,
Tirupati – 517 501, R/o Tirupati, A.P.
8. G. Chalapathi, Gr-C
S/o G. Nagaiah

Aged 49 years, Occ: Casual Labourer,
HRO RMS TP Division,
Tirupati – 517 501, R/o Tirupati, A.P.

9. P. Srinivasulu, Gr-C
S/o P. Mastanaiah
Aged 51 years, Occ: Casual Labourer,
SRO RMS TP Division,
Nellore Post, R/o Nellore, A.P.



10. CHV. Krishnaiah, Gr-C
S/o CHV. Ramaiah
Aged 52 years, Occ: Casual Labourer,
SRO RMS TP Division,
Nellore Post, R/o Nellore, A.P.

11. P. Sudhakar, Gr-C
S/o Subramanyam
Aged 49 years, Occ: Casual Labourer,
SRO RMS TP Division, Nellore Post, R/o Nellore, A.P.

12. R. Venu Gopal, Gr-C
S/o R. Rama Sesaiah
Aged 51 years, Occ: Casual Labourer,
SRO RMS TP Division, Nellore Post
R/o Nellore, A.P.

... Applicants

(By Advocate: Mr. B. Gurudas)

A N D

1. Union of India: Rep. by
The Secretary to the Govt of India,
Department of Post, Dak Bhawan,
Sansad Marg, NEW DELHI -110 001.
2. The Chief Postmaster General,
Andhra Pradesh Circle,
VIJAYAWADA – 520 013, (AP.)
3. The Postmaster General,
Kurnool Region, KURNOOL – 518 003, (AP.)
4. The Superintendent of Post Offices,
RMS TP Division,
TIRUPATI – 517 501 (AP)

...Respondents.

(By Advocate : Mr. V. Venumadhava Swamy, Sr. PC for CG)

ORDER
(As per Hon'ble Mr. B.V.Sudhakar, Admin. Member)

Through Video Conferencing:

2. The OA is filed for absorption and regularization of the services of the applicants.



3. Brief facts are that the applicants are working as Casual Labour since 1993 in the respondents organization in the vacant posts of Grameen Dak Sewak (*for short GDS*). Applicants represented on 30.01.2021 for absorption against GDS vacant posts which remains unanswered. The Staff Union also took up the matter through the letter dt. 28.03.2018. But of no avail. The respondents issued a notification on 27.01.2021 for filling up all GDS vacancies on direct recruitment. Hence, the OA.

4. The contentions of the applicants are that recently the condition of sponsoring by the employment exchange to be eligible to be absorbed has been relaxed. The applicants have been working continuously for more than 10 years and are eligible for appointment as GDS/MTS. They have to be first appointed before going for online recruitment. Applicants have been discriminated and Articles 14 & 16 of the Constitution have been violated.

This Tribunal on 22.02.2021 granted an interim direction to the respondents to maintain status quo and not to fill up the posts to the extent of the applicants.

5. Respondents contested the OA by filing a reply statement, which we have gone through.

6. Heard both the Counsel and perused the pleadings on record.

7 (I) During the course of hearing, learned counsel for the applicants submitted that this Tribunal, in similar circumstances, disposed of OA No. 874/2015 on 06.01.2022 and these applicants are also similarly placed as that of the applicants in the said OA and therefore, similar order may be passed in this OA also. Learned counsel appearing for the respondents has no serious objection for such disposal.



(II) In OA 874/2015, this Tribunal passed a detailed order and the operative portion of the order is extracted hereunder:

“II. The Postal Directorate has clarified in its letter dated 14.1.2015 as under:

“3. The issue was accordingly referred to the DKS Chauhan Committee which was constituted to look into the various aspects related to Gramin Dak Sevaks. Considering the recommendation of the Committee on the issue, it has been decided by the Department to delete the condition of sponsorship from employment exchange and to allow preference in GDS posts to casual labourers (full time and part time) engaged on or before 01.09.1993 subject to fulfillment of the following conditions:-

- (i) They fulfil all the conditions prescribed for GDS post on the date of notification of the vacancy; and*
- (ii) They have rendered a minimum service of one year [240 days in service in a year reckoned as one year's service] and continue to be in service.*

4. Conditions referred to at Para 2(i) above in terms of prescribed maximum age of 35 years {38 years for OBC & 40 years for SC/ST} will be permissible for relaxation to the extent of equal to the number of years of service rendered as casual labour [taking into account not less than 240 days of service in a year as equal to one year] “

Applicants have worked more than 20 years as per Annexure-I appended by the applicants and the same has been admitted by the respondents in the reply statement. The only contention of the respondents is that the applicants are not part time or full time casual labour to be considered for absorption. The Postal Directorate vide letter 17.05.89 has defined as to who is a casual labour and it can be seen from the said memo that the outsiders do come under the category of casual labour. The said memo has not been superseded. Further, Law does not distinguish between part time/full time casual labour and the outsiders. The essential requirement is as to whether a person has worked for 10 years or more against sanctioned posts without any orders from the Court and such engagement was done irregularly. To

state what we did, we take support of para 44 of the Uma Devi judgment of Hon'ble Supreme Court, wherein it was observed as under:



“44. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V. NARAYANAPPA (supra), R.N. NANJUNDAPPA (supra), and B.N. NAGARAJAN (supra), and referred to in paragraph 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of courts or of tribunals. The question of regularization of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularize as a one time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularization, if any already made, but not sub judice, need not be reopened based on this judgment, but there should be no further by-passing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme.”

Applicants, as stated above, have rendered more than 20 years of service, which is not disputed. The respondents have not claimed that the applicants could complete the 10 years of service with the intervention of the Courts. Their engagement has been irregular, but not illegal. They have been working against the 48 GDS-MM sanctioned posts, as admitted by the respondents in the reply statement. Thus, the case of the applicants is a fit one to be examined as per the Uma Devi judgment.

III. Thus, in view of the Uma Devi cited supra, the Hon'ble High Court judgment in WPs 8615/2004 and 9282/2004 dated 8.7.2004 relied upon by the respondents, would not come to their assistance. Therefore, even the disposal of the previous OA 1675/2003 as per the directions of this Tribunal would not attract the principle of res judicata since the respondents have not contended that the earlier OA was disposed by reckoning para 44 of the Uma Devi judgment cited supra.

IV. Consequently, in view of the aforesaid, we direct the respondents to examine and reconsider the request of the applicants for regularization in the light of the judgment of the Uma Devi and with reference to the observations made supra. Time allowed to implement the judgment is 3 months from the date of receipt of this order.

V. With the above direction, the OA is disposed of with no order as to costs.”

III. We are of the view that these applicants are also similarly placed as that of the applicants in the above OA and therefore, this OA can be disposed of on the same lines.



IV. Accordingly, the respondents are directed to examine and reconsider the request of the applicants for regularization in the light of the judgment of the Uma Devi and with reference to the observations made supra. Time allowed to implement the judgment is 3 months from the date of receipt of this order. The OA is accordingly disposed of, with no order as to costs. Order of status quo granted on 22.02.2021 is vacated.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

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