

X-18/12/2024-SPN-II
Government of India
Ministry of Communications
Department of Posts
(Personnel Division)

Dak Bhawan, Sansad Marg,
New Delhi – 110001,
Dated: November, 2024

To

All Heads of Circles

Subject: Previous orders/judgements of Hon'ble Tribunal/High Court/Supreme Court of India given in the favour of Department filed by Reserved Trained Pool personnel for counting of their RTP service before their regular appointment as Postal Assistant/Sorting Assistant, for purpose of various service matter.

Madam/Sir,

I am directed to say that recently it is observed that a number of cases have been filed/are being filed in connection with counting of Reserved Trained Pool Service rendered by them before their regular appointment as Postal Assistant/Sorting Assistant, the purpose of various service matter i.e. for MACP/seniority/regularization of RTP service.

2. Due to lack of previous judgements/orders given by Hon'ble Tribunal/High Court/Supreme Court of India in favour of Department in similar type of cases or order being in a case of other Postal Circles, Circles are unable to quote such orders/judgement. Apart from general rules/guidelines, referring of previous judgments/order at the initial stage are very vital step to get judgement in the favour of Department. If the points raised by the applicant is not challenged with supporting documents elaborating the adverse effect in clear terms, it would be very difficult to get a favourable order. Further, if an application is allowed in the initial stage, there would be lesser chances of getting a favourable decision at appeal stage. As such, it is very imperative, cases at initial stage must be defended meticulously.

3. Some of orders/judgements of Hon'ble Tribunal/High Court/Apex Court of India given in the favour of Department in RTP cases are hereby circulated as Annexure-I *through India Post website* to all Postal Circles for reference. These orders may be downloaded from respective website of Tribunal/Courts. All Postal Circles are also requested any other judgements/orders of Tribunals/High Courts/Apex Court given in favour of Department in RTP cases must be circulated to all other Circles including Directorate for reference.

Encl. As above.

Signed by Yours faithfully,

Vangara Prasad

Date: 18-11-2024 17:24:48

(Vangara Prasad)

Assistant Director General (SPN)

Copy to: GM, CEPT with request to upload this order at India Post website for information of all Postal Circles.

Annexure-I

RESERVE TRAINED POOL SCHEME: Department vide letter no. 60/36/80-SPB-II dated 30.10.1980 had introduced RTP scheme for Postal Assistant and Sorting Assistant in Postal and RMS Divisions with a view to ensure smooth flow of work in operative offices, which at times was hampered due to absence and other causes and meeting with staff shortage with overtime arrangement was not found to be a satisfactory solution. As per this scheme, at the time recruitment in each recruiting unit, after the main select list for the number of available vacancies is drawn up, a specific additional reserve list of candidates equal in number to fifty percent of the number of candidates in the main select list was to be drawn up. The candidates in the reserve list were also imparted the requisite training like the candidates in the main list. Thus, the candidates in the reserve list constituted a standing pool of trained reserve, who were to be eventually absorbed as regular employees as and when vacancies arise. Till such time as they were given regular appointment, their services were to be used as short duty staff against vacancies due to absence or other reasons and also for handling peak hour traffic. They were to be employed for a maximum of eight hours per day. It was laid down in the said Scheme that since the Reserve Trained Pool (RTP) candidates were recruited as a stand – by over and above the vacancies announced at the time of recruitment, these surplus recruited candidates were to be given priority of absorption against vacancies for subsequent recruitment. This scheme was discontinued vide letter no. 60-31/81-SPB-I dated 4.03.1986.

Thus, RTP Scheme did not envisage any right for counting of RTP service rendered prior to regular appointment, for any purpose. As per the Scheme, the constitution of standing pool of trained reserve candidates was made to meet the emergent needs of manpower in Post Offices and RMS Office, for ensuring smooth flow of work in operative offices.

The Scheme did not provide for automatic absorption of reserve list candidates into Department but provided absorption of reserve list candidates into the Department in future vacancies as regular employees in the manner set out in the scheme. RTP candidates were much aware of the fact that they were not regular appointees and they would be paid wages on hourly basis only.

2. Previous judgements/order given by Hon'ble Tribunals/High Courts/Supreme Court of India in the RTP matter:

(i) **Hon'ble Apex Court judgment dated 01.08.1997 in Civil Appeal No. 5268/97 (SLP (C) No. 17422/95) CA No. 126/96, 124-125/96, 127-130/96 & 131/96)-** [case of Shri K.N. Sivadas & Ors filed for counting of RTP service for departmental examination]: Hon'ble Apex Court had passed the order that any

service rendered by RTP personnel prior to their regular appointment in the cadre cannot count for the purpose of the said rule because it cannot be considered as service in any eligible cadre.

Hon'ble Apex Court had categorially dismissed the claim of the applicant to count service of RTP as a regular for appearing in departmental examination which is tantamount to not count RTP service as regular.

(ii) Order dated 24.01.2023 of Hon'ble High Court of Madras Bench in WP No. 13633/2020 and 1540,289 & 188/2021 and WP No. 16929/2020, 1743,258 & 361/2021: Applicants in this case had sought that their service as RTP should be counted for fixation of seniority/ financial upgradation. Hon'ble High Court had dismissed the case.

(iii) Order dated 04.11.2024 of Hon'ble High Court of Madras Bench in WP No. 1373/2021 and WMP No. 1545/2021: Applicants in this case had sought for relief for regularization of RTP service/fixation of seniority and pay and allowances. Hon'ble High Court has dismissed their demands.

(iv) Common order dated 30.09.1999 of Hon'ble Ernakulam Bench in OA No. OA No. 1178/1996 and 34 others: Applicants had claimed to revise the seniority of the applicants with reference to their initial date of appointment as RTP. CAT, Ernakulam Bench vide its order dated 30.09.1999 had dismissed the case.

PETITIONER:
UNION OF INDIA & ANR.

Vs.

RESPONDENT:
K.N. SIVADAS & ORS.

DATE OF JUDGMENT: 01/08/1997

BENCH:
SUJATA V. MANOHAR, M. JAGANNADHA RAO

ACT:

HEADNOTE:

JUDGMENT:

[With Civil Appeal No. 5268/97 {@ SLP[C] No. 17422/95},
Civil Appeal Nos. 126/96, 124-125/96, 127-130/96 & 131/96]

J U D G M E N T

Mrs. Sujata V. Manohar. J.

Leave granted in S.L.P.(C) No. 17422 of 1995.

Application for impleadment in C.A. Nos. 124-125/96 are allowed.

The respondent in these appeals were, at the material time, in the Reserved Trained Pool of Post and Telegraphs Department, Government of India. After the bifurcation of the two departments in the year 1988 the respondents continued in the Reserved Trained Pool of their respective departments.

The Reserved Trained Pool was set up in October 1980. Under a circular bearing 60/36/80-SPB I dated 30th of October, 1980 issued by the office of the Director General, Indian Posts & Telegraphs Department, a scheme was framed for constitution of a standing pool of trained reserved candidates for Post and RMS offices. The circular set out that in may operative offices the smooth flow of work was hampered by shortage of staff due to absenteeism and other cause. Meeting this shortage with overtime arrangements was not always a satisfactory solution. Hence it was decided that a standing pool of trained reserve candidates (hereinafter referred to as RTPs) should be formed in each recruiting unit to meet these short-time needs and recurrent needs. The scheme was made applicable the cadres of Postal Assistants and Sorting Assistants. As per existing practice, at the time of each recruitment, after the select list was drawn up. an additional list of candidates known as Part 'B' or part II list was being prepared by each recruiting unit. The candidate in part 'B' list were called up against drop-outs from the main list. They were imparted training only after they were brought to the main list. It was now proposed under the new scheme that after the main list is drawn up, a specific additional reserve list of candidates equal in number to 50% of the number of candidates in the main select list will be drawn up. The candidates in the reserve list will also be imparted training like the candidates in the main list. The candidates in the reserve

list will constitute a standing pool of trained reserve. They will be absorbed in regular vacancies in their turn after the candidates in the main list are absorbed. Till then they will be used as short duty staff against vacancies due to absenteeism or any other reason. Besides, they will be used for handling peak hour work. Since the purpose of having them as short duty staff is to minimise staff shortages, they may be called for engagement depending upon their ready and easy availability on demand and not necessarily in the order of their position in the reserved list. Their eventual absorption, however, will be in the order of their merit. They may be employed accordingly to needs but subject to a maximum of eight hours a day. They will be paid on hourly rates of wages. Clause 5 of the circular provides for the manner of absorption. It says that reserved candidates are recruited as a stand-by over and above the vacancies announced at the time of recruitment. The surplus recruited candidates will be given priority of absorption against vacancies for subsequent recruitment in the manner which is set out in that clause.

This scheme was in operation from the date of the circular till 4.3.1986 when the scheme was abolished. The initial creation of reserved pool was on the basis of 50% of the notified vacancies. In 1982, the percentage of reserved pool was reduced to 15% of the notified vacancies. The entire scheme was abolished with effect from 4.3.1986. The respondents in the appeals were recruited as RTPs. They have been since absorbed as regular employees on various dates from 1988 to January 1990 (with a few exceptions as hereinafter set out)

The respondents filed applications before different Benches of Central Administrative Tribunal claiming reliefs similar to those which were granted to casual labours in their department in view of a scheme framed for casual labourers in the year 1989 as per the directions given by this Court in *Jagrit Mazdoor Union (Regd.) and Ors. v. Mahanagar Telephone Nigam Ltd. and Anr.* (1990 Supp SCC 113). The respondents prayed that the benefits which were given to the casual labourers under the scheme which came into effect in the year 1989 should be given to them with effect from the date they were recruited as RTPs till the date of their absorption as regular employees. The first of such application came up before the Central Administrative Tribunal, Ernakulam Bench which is the before the Central Administrative Tribunal, Ernakulam Bench which is the subject-matter of CA Nos. 80-123 of 1996. The Tribunal directed that the applicants before them who had been rendering service for eight hours a day continuously, on completion of one year of such service should be deemed to have attained temporary status and half the period of eight hours a day should be counted for qualifying service for pension. It also directed that all other benefits made available to casual mazdoors after attaining temporary status should be extended to the applicants as set out therein and that the applicants should be paid productivity linked bonus during the period when they were RTPs if they had completed 240 days of service each year for three years after their recruitment as RTP candidates. Similar reliefs have been given by the Hyderabad Bench of the Tribunal also. Hence the department had filed the present appeals from these judgments of different benches of the Tribunal.

The directions given by the Central Administrative Tribunal are based upon a decision of this Court in *Jagrit Mazdoor Union (Regd.) and Ors. v. Mahanagar Telephone Nigam Ltd. & Anr.*, (1990 Supp SCC 113) (Supra). This judgment was

in respect of writ petitions which were filed either by casual labourers, or by reserved trained pool employees. This Court after referring to certain interim orders passed in various petitions before it, referred in paragraph 5 to the scheme known as Casual Labourers (Grant of Temporary Status and Regularisation) Scheme which had been formulated and put into operation from 1st of October, 1989. It said, "we find that the scheme is comprehensive and apart from provision for conferment of temporary status, it also specifies the benefits available on conferment of such status.....In these circumstance, no further specific direction is necessary in the two application relating to the two Nigams of Bombay and Delhi except calling upon the respondent to implement every term of the scheme at an early date." In paragraph 6, this Court dealt with the two remaining writ petitions by the RTP employees in the Department of Posts. It has recorded that after April 1986, about 7,000 RTPs have been absorbed. It said "Since the RTP category is no more expanding, only about 2900 of them remain to be absorbed. We have been told by learned counsel for the department that equal number of justified and supernumerary posts are being created by the ministry. The ministry's proposal is in the hands of the Ministry of Finance for approval and is expected to be finalised soon. This has to be done within a time frame and we direct the posts of both the categories to be created by the end of January 1990, and the process of absorption to be completed by March 31, 1990. With such absorption made, the RTPs will become regular employees. All their claims would, thereafter, be regulated on the basis of entitlement in accordance with extant rules." The judgment was delivered in November 1989. The expected sanction was obtained and all RTPs have been absorbed as regular employees in January 1990.

Are reserved trained pool employees prior to their absorption as regular employees, entitled to the benefits which have been given to casual labourers under the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme framed under the circular No.45-95/87-SPB I, dated 12.4.1991 issued by the Ministry of Communication, Government of India, Department of Posts and brought into effect from 29.11.1989? The Casual Labourers (Grant of Temporary Status and Regularisation) Scheme sets out that in compliance with the directions of the Hon'ble Supreme Court, a scheme was drawn up by this department in consultation with the Ministries of Law, Finance and Personnel and President had been pleased to approve the scheme. The scheme provided that temporary status would be conferred on casual labourers in employment as on 29.11.1989 and who continue to be currently employed and have rendered continuous service for at least on year. During the year they must have been engaged for a period of 240 days. The scheme gives various benefits to casual labourers which are conferred with effect from 29.11.1989. A casual labourer, therefore, is not given under the scheme any benefits prior to 29.11.1989. Under the scheme temporary status is conferred on casual labourers if they fulfil the various conditions and requirements laid down in the scheme. Clause 7 provides that conferment of temporary status does not automatically imply that the casual labourers would be appointed as regular Group 'D' employees with any fixed time frame. Appointment to Group 'D' vacancies will continue to be done as per the extant recruitment rules, which stipulate preference to eligible ED employees. Therefore, various benefits which go with the conferment of temporary status were given to these casual

labourers in view of the fact that their eventual absorption as regular employees was not to be within any fixed time and they were not automatically entitled to become regular employees.

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 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). In other words, RTPs are claiming benefits for a period for which a similar benefit has not been conferred on casual labourers under the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme.

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 benefit 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.

Among the various benefits the Tribunal gave to the respondents (RTPs) productivity linked bonus if they had put in, like casual labourer, 240 days of service each year for three years or more on the basis of its judgment in O.A. 612/89 and O.A. 171/89. The appellants have submitted that although the order in these two O.As. was not challenged in appeal, it should not be automatically made applicable to all RTPs. The appellants have relied upon the observation of this Court in State of Maharashtra v. Digambar (1995 4 SCC 683) to the effect, inter alia, that non-filing of an appeal before this Court by the State in similar matter, by itself cannot operate as a fetter 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 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.

In C.A. Nos. 124-125 of 1996 the respondents originally worked as Telegraph Assistants in various Central Telegraph Offices in their reserved trained pool and were absorbed in regular service in 1992. In their department, the scheme of temporary status and regularisation for casual labours has come into effect from 1.10.1989. 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 labourer and the Tribunal could not have equated the two.

In C.A. Nos. 127-130 of 1996 the RTPs who have been regularly absorbed in the year 1988 have been given the benefit of counting their service as RTPs for the purpose of their eligibility to appear for the departmental examination. 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 benefit of service rendered by them prior to their regular appointment, for the purpose of their eligibility to appear for the departmental promotion examination.

In the premises, all these appeals are allowed, the impugned judgments of the Tribunal are set aside and the original applications filed before the Tribunal are dismissed. There will, however, be no order as to costs.



W.P.Nos.13633 of 2020 and 1540, 188 & 289 of 2021
and W.M.P.Nos.16929 of 2020, 1743, 258 & 361 of 2021

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 09.01.2023

DELIVERED ON : 24.01.2023

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.Nos.13633 of 2020 and 1540, 289 & 188 of 2021
and

W.M.P.Nos.16929 of 2020, 1743, 258 & 361 of 2021

W.P.No.13633 of 2020

1.Union of India rep. by,
The Chief Postmaster General,
Tamil Nadu Circle,
Anna Salai, Chennai - 2.

2.The Postmaster General,
Western Region (TN),
Coimbatore - 641 002.

3.Senior Superintendent of Post Offices,
Salem East Division,
Salem - 636 001.

... Petitioners

Vs.

1.The Registrar,
Central Administrative Tribunal,

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and W.M.P.Nos.16929 of 2020, 1743, 258 & 361 of 2021

WEB COP High Court Campus,
Chennai - 104.

2.J.Venugopal

... Respondents

W.P.No.1540 of 2021

1.Union of India rep. by,
Director General,
Department of Posts,
M/o.Communication & IT,
Sansad Marg, Dak Bhavan,
New Delhi - 110 001.

2.The Chief Postmaster General,
Tamilnadu Circle,
Anna Salai, Chennai - 2.

3.The Postmaster General,
Western Region (TN),
Coimbatore - 641 002.

4.The Senior Superintendent of Post Offices,
Coimbatore Division,
Coimbatore - 641 001.

5.The Superintendent of Post Offices,
Tirupur Division,
Tirupur - 641 601.

... Petitioners

Vs.

1.The Registrar,
Central Administrative Tribunal,
High Court Campus,



W.P.Nos.13633 of 2020 and 1540, 188 & 289 of 2021
and W.M.P.Nos.16929 of 2020, 1743, 258 & 361 of 2021

WEB COF Chennai - 104.

- 2.C.Vanachinnappan
- 3.P.Balan
- 4.S.Tamilselvan
- 5.A.Mohan
- 6.A.Valarmathi
- 7.R.Chandravadani
- 8.T.Parimala
- 9.M.Arunachalam
- 10.R.Navamani
- 11.M.Rameshwari
- 12.T.Rajakur
- 13.R.Shenbagavalli
- 14.S.Shanthi - II
- 15.V.Palanisamy
- 16.M.Nachimuthu
- 17.A.Vajravelu
- 18.V.Thavamani
- 19.V.U.Pushpamary
- 20.R.Paramasivam
- 21.N.S.Gajalakshmi
- 22.S.Saroja
- 23.S.Susila
- 24.M.Indira
- 25.P.V.Neelamani
- 26.R.Shanthalakshmi
- 27.S.Shanthi -I
- 28.K.Vijayalakshmi
- 29.S.Bagyalakshmi
- 30.S.Kausalya
- 31.P.Mangayakarasi
- 32.M.Joseph Thatheu
- 33.N.Vidhya



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- 34.V.Girija Sankar
- 35.A.Nirmalkumar
- 36.K.Suhirtha Devi
- 37.R.Anusooya
- 38.R.Jegatha
- 39.N.Usha
- 40.Andal Srinivasan
- 41.S.Sagarani
- 42.D.Chandra
- 43.I.Joy Suganthi
- 44.M.Kamala
- 45.R.Rajini
- 46.G.Sumathy
- 47.S.Thembavani
- 48.N.Sagunthala
- 49.S.Pachainayaki
- 50.R.Jothimani
- 51.S.V.Mahalakshmi
- 52.V.Renuka Devi
- 53.G.Muralidharan
- 54.K.Jothimani
- 55.A.Pankajam
- 56.N.Sarasu

... Respondents

W.P.No.188 of 2021

- 1.Union of India rep. by,
The Chief Postmaster General,
Tamil Nadu Circle,
Anna Salai, Chennai - 2.
- 2.The Postmaster General,
Western Region (TN),
Coimbatore - 641 002.



W.P.Nos.13633 of 2020 and 1540, 188 & 289 of 2021
and W.M.P.Nos.16929 of 2020, 1743, 258 & 361 of 2021

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3.Senior Superintendent of Post Offices,
Salem East Division,
Salem - 636 001.

... Petitioners

Vs.

1.The Registrar,
Central Administrative Tribunal,
High Court Campus,
Chennai - 104.

2.M.Duraisamy

... Respondents

W.P.No.289 of 2021

1.Union of India rep. by,
The Chief Postmaster General,
Tamil Nadu Circle,
Anna Salai, Chennai - 2.

2.The Postmaster General,
Western Region (TN),
Coimbatore - 641 002.

3.Senior Superintendent of Post Offices,
Salem East Division,
Salem - 636 001.

... Petitioners

Vs.

1.The Registrar,
Central Administrative Tribunal,
High Court Campus,
Chennai - 104.



W.P.Nos.13633 of 2020 and 1540, 188 & 289 of 2021
and W.M.P.Nos.16929 of 2020, 1743, 258 & 361 of 2021

WEB CO. 2.R.S.Murugan

... Respondents

PRAYER IN W.P.NO.13633 OF 2020 :

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of 1st respondent in O.A.No.1149 of 2014 dated 27.06.2019 in disposing the O.A. filed by the 2nd respondent and quash the same.

PRAYER IN W.P.NO.1540 OF 2021 :

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of 1st respondent in O.A.No.1691 of 2016 dated 20.08.2019 in disposing the O.A. filed by the 2nd respondent and quash the same.

PRAYER IN W.P.NO.188 OF 2021 :

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of 1st respondent in O.A.No.1240 of 2014 dated 27.06.2019 in disposing the O.A. filed by the 2nd respondent and quash the same.

PRAYER IN W.P.NO.289 OF 2021 :

Writ Petition filed under Article 226 of the Constitution of India praying to



W.P.Nos.13633 of 2020 and 1540, 188 & 289 of 2021
and W.M.P.Nos.16929 of 2020, 1743, 258 & 361 of 2021

WEB COPY issue a Writ of Certiorari to call for the records of 1st respondent in O.A.No.1148 of 2014 dated 12.07.2019 in disposing the O.A. filed by the 2nd respondent and quash the same.

In.W.P.Nos.13633/2020, 188 & 289/2021 :

For Petitioners : Mr.A.R.L.Sunderesan,
Additional Solicitor General of India
Asst. by Mr.C.Kulainthavel, SPC
R1 : Tribunal
For R2 : Mr.C.Premkumar for
M/s.R.Malaichamy

In.W.P.No.1540/2021 :

For Petitioners : Mr.A.R.L.Sunderesan,
Additional Solicitor General of India
Asst. by Mr.C.Kulainthavel, SPC
R1 : Tribunal
For R2 to R26, 28,
30 to 39, 41, 42,
44 to 52 & 54 : Mr.S.Ramaswamy Rajarajan

COMMON ORDER

(R.HEMALATHA, J.)

These Writ petitions are filed challenging the orders of the Central Administrative Tribunal, Chennai Bench, passed in O.A.No.1149



W.P.Nos.13633 of 2020 and 1540, 188 & 289 of 2021
and W.M.P.Nos.16929 of 2020, 1743, 258 & 361 of 2021

WEB COPY of 2014 dated 27.06.2019, O.A.No.1691 of 2016 dated 20.08.2019,
O.A.No.1240 of 2014 dated 27.06.2019 and O.A.No.1148 of 2014 dated
12.07.2019.

2. The respondents were all recruited to the cadre of Postal Assistant in Salem Division in the first half of 1982 under Reserved Trained Pool (RTP) and also were given induction training and practical training. Since there was a ban on recruitment Pan India in the petitioners' department, the respondents could not be regularised from the date of the training. They were working only as short duty staff and they were well aware of the fact that they will not be conferred with any right either to claim seniority or continuation in service. In fact this Reserved Trained Pool (RTP) was set up in 1980 for constitution of a standing pool of trained candidates for post and RMS offices by the Director General, Indian Post and Telegraph Department.

2.1. Subsequently, these postal assistants working as short duty staff were appointed as postal assistants in the Salem East Division on



W.P.Nos.13633 of 2020 and 1540, 188 & 289 of 2021
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15.03.1989 and 05.06.1989. There was relaxation of the recruitment ban in 1986 and that was one of the reasons the respondents were absorbed as postal assistants creating some Super Numeric Posts.

2.2. In such circumstances, they came to know that one Parvathi and others in Kerala, as per orders of Central Administrative Tribunal, Ernakulum Bench in O.A.No.79/2011 who were recruited in the second half of 1982 were regularised with effect from 03.01.1983 and were eligible to get all the benefits which any regular Postal Assistant is eligible for while the respondents were deprived of such benefits like MACP I, II & III increments, pension and pensionary benefits.

2.3. According to the respondents, similarly placed persons who were recruited in the second half of 1982 were allowed to get all the benefits with retrospective effect. However, these respondents were given promotion Time Bound One Promotion (TBOP) with effect from 06.04.2005 and also given financial upgradation with MACP 2 with effect from 07.04.2009. But these respondents demanded fixation of seniority and financial benefits entitled to them on the basis of their length of service



W.P.Nos.13633 of 2020 and 1540, 188 & 289 of 2021
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which was not acceded to by the petitioners. The respondents had claimed the benefits from retrospective effect as similarly placed employees in Kerala who filed O.A.No.79 of 2011 in Central Administrative Tribunal, Ernakulam Bench and which was allowed. The same order was confirmed by the High Court of Kerala in O.P (CAT) No.89/2014 dated 17.03.2017 and the SLP.No.25442 of 2017 filed before the Hon'ble Apex Court by the petitioners against the High Court order was dismissed.

2.4. Written representations which were submitted to the petitioners by the respondents did not evoke much response due to which the respondents were constrained to approach the Central Administrative Tribunal, Chennai Bench in O.A.Nos.1148, 1149 & 1240 of 2014 individually. Initially, O.A.No.1149 of 2014 and 1240 of 2014 were disposed of directing the petitioners to consider the case on the basis of Central Administrative Tribunal, Ernakulam Bench order in O.A.No.79 of 2011 and batch cases and also the order passed by the Kerala High Court in O.P.(CAT) 89/2014 in *K.S.Beena Vs. Union of India & Others*.

2.5. The Central Administrative Tribunal, Chennai in its order held that



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when facts and circumstances are similar to the referred cases and therefore the benefits cannot be denied to the present respondents. This decision in this common order was repeated in O.A.No.1148 of 2014 also. In O.A.No.1691 of 2016 as many as 55 similarly placed candidates referred to the same decision of Central Administrative Tribunal, Ernakulam Bench in O.A.No.79/2014 and the Kerala High Court in O.P.(CAT) 89/2014 in *K.S.Beena Vs. Union of India & Others* (cited supra). This order was challenged in W.P.No.1540 of 2021. In the earlier O.As, writ petitions were filed in this Court in W.P.No.13633 of 2022, 188 of 2021 and 289 of 2021. Thus all the four writ petitions are against the decision of the Central Administrative Tribunal, Chennai in different O.As for different respondents.

3. The petitioners have adduced documentary evidence to show that why and how the post of trained reserved candidates was constituted and what was the terms and conditions of employment. The system called RTP (Reserved Trained Pool) was introduced vide order dated 30.08.1980



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and the salient feature of the system was that when Postal Assistants and Sorting Assistants were filled in each recruitment Unit for a certain number of vacancies to be filled up an additional list upto 50% of the vacancies would be prepared and imparted training and categorised as RTP and kept in reserve to meet the regular future vacancies and current emergent needs of man power in the Post and RMS offices. They were expected to function as short duty staff on hourly rate of wages (Rs.2/- per hour). These candidates would be given priority in absorption for example if 15 candidates are included in the reserve list and 5 of them are brought on to the main list against drop outs in the concerned recruitment, the balance of 10 who constitute the trained reserve will be adjusted against the subsequent recruitment. In the subsequent recruitment if 20 vacancies are ear marked there would be 10 from the main list and 10 from the reserved list of the previous recruitment. The scheme was also to be operated for a period of one year on an experimental basis. The twin objectives of RTP was to reduce the vacancies to a bare minimum at any point of time and also to avoid inordinate delay in absorbing the reserved candidates.



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WEB COPY However, the scheme was in operation till 04.03.1986.

4. Mr. A.R.L. Sundaresan, learned Additional Solicitor General would contend as follows:

- i. The Apex Court in Civil Appeal No. 5268/97 @ SLP[C] No. 17422/95}, Civil Appeal Nos. 126/96, 124-125/96, 127-130/96 & 131/96 (*Union of India vs. K.N.Sivadas and others*) ruled that any service which was rendered prior to the regular appointment to the cadre cannot count for this rule because it cannot be considered as service in eligible cadre. This ruling was in the context of awarding of financial benefits and TBOP scheme for which the eligibility was 16 years regular service in a cadre.
- ii. The ban on any recruitment was an administrative decision by the Government of India and was not challenged by the present respondents in any court of law. Furthermore, it was contended that many of the respondents were given the benefits of TBOP after the



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WEB COPY completion of 16 years of regular service.

- iii. A bare perusal of the year of filing the O.As would show that the respondents have staked their claim after more than 25 years for which no reason has been assigned.
- iv. He also pointed out that the Supreme Court had made a clear differentiation between Casual Labourers and RTPs. According to the Apex Court decision in *Union of India vs. K.N.Sivadas and others* (cited supra) the scheme for RTPS provided for an assurance that they would be accommodated in future vacancies as regular employees while that was not the case with the Casual Labourers and therefore the RTPs cannot on the one hand avail the benefit of absorption in regular service because of their own scheme and at the same time on the other hand claim additional benefits.
- v. According to him, the order of Central Administrative Tribunal, Ernakulam Bench, cannot be replicated in Chennai due to various factors. The implementation of such an order would result in total chaos and confusion in searching and reconstructing the records.



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One such direction in the said O.A. in Central Administrative Tribunal, Ernakulam is to work out the vacancies that arose from 1984 onwards during the period when there was a ban on recruitment and thereafter filling it up yearwise on merits by accommodating notionally the RTP candidates. Such orders though confirmed by the High Court of Kerala, are likely to have serious repercussions in any organisation.

vi. Therefore the learned Additional Solicitor General contended that the order of O.As in Central Administrative Tribunal, Chennai Bench, relying upon the decision of Central Administrative Tribunal, Ernakulam Bench, was totally perverse and liable to be dismissed.

vii. In order to substantiate his contentions he relied on the decision in *Khoday Distilleries Limited and others vs. Sri Mahadeshwara Sahakara Sakkare Karkahane Limited, Kollegal* reported in 2019 4 SCC 376 and contended that the dismissal of the SLP at the admission stage by way of a non speaking order implies that the Apex Court was not inclined to exercise its discretion to allow the



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WEB COPY appeal being filed. In other words, the senior counsel opined that such an order refusing Special Leave to appeal does not stand substituted in place of the order under challenge. Therefore, according to him, the Apex Court had not confirmed the decision of the Kerala High Court.

viii.He had also relied on the decision in *Union of India and others vs.*

C. Girija and others (Civil Appeal No.1577 of 2019) decided on

13.02.2019 by Hon'ble Apex court in which it is held that

12. This Court had occasion to consider the question of cause of action in reference to grievances pertaining to service matters. This Court in C.Jacob Vs. Director of Geology and Mining and Another, (2008) 10 SCC 115 had occasion to consider the case where an employee was terminated and after decades, he filed a representation, which was decided. After decision of the representation, he filed an O.A. in the Tribunal, which was entertained and order was passed. In the above context, in paragraph No.9,



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following has been held:-

“9. The courts/Tribunals proceed on the assumption, that every citizen deserves a reply to his representation. Secondly, they assume that a mere direction to consider and dispose of the representation does not involve any “decision” on rights and obligations of parties. Little do they realise the consequences of such a direction to “consider”. If the representation is considered and accepted, the ex-employee gets a relief, which he would not have got on account of the long delay, all by reason of the direction to “consider”. If the representation is considered and rejected, the ex-employee files an application/writ petition, not with reference to the original cause of action of 1982, but by treating the rejection of the representation given in 2000, as the cause of action. A prayer is made for quashing the rejection of representation and for grant of the relief claimed in the representation. The



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Tribunals/High Courts routinely entertain such applications/petitions ignoring the huge delay preceding the representation, "and proceed to examine the claim on merits and grant relief. In this manner, the bar of limitation or the laches gets obliterated or ignored."

13. *This Court again in the case of Union of India and Others Vs. M.K. Sarkar, (2010) 2 SCC 59 on belated representation laid down following, which is extracted below:-*

"15. When a belated representation in regard to a "stale" or "dead" issue/dispute is considered and decided, in compliance with a direction by the court/Tribunal to do so, the date of such decision cannot be considered as furnishing a fresh cause of action for reviving the "dead" issue or time-barred dispute. The issue of limitation or delay and laches should be considered with reference to the original cause of action and not with reference to the date on which an order is passed in compliance



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with a court's direction. Neither a court's direction to consider a representation issued without examining the merits, nor a decision given in compliance with such direction, will extend the limitation, or erase the delay and laches."

14. Again, this Court in State of Uttaranchal and Another Vs. Shiv Charan Singh Bhandari and Others, (2013) 12 SCC 179 had occasion to consider question of delay in challenging the promotion. The Court further held that representations relating to a stale claim or dead grievance does not give rise to a fresh following was laid down:-

"19. From the aforesaid authorities it is clear as crystal that even if the court or Tribunal directs for consideration of representations relating to a stale claim or dead grievance it does not give rise to a fresh cause of action. The dead cause of action cannot rise like a phoenix.



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Similarly, a mere submission of representation to the competent authority does not arrest time.

23. In State of T.N. v. Seshachalam, (2007) 10 SCC 137, this Court, testing the equality clause on the bedrock of delay and laches pertaining to grant of service benefit, has ruled thus: (SCC p. 145, para

16) “16. ... filing of representations alone would not save the period of limitation. Delay or laches is a relevant factor for a court of law to determine the question as to whether the claim made by an applicant deserves consideration. Delay and/or laches on the part of a government servant may deprive him of the benefit which had been given to others. Article 14 of the Constitution of India would not, in a situation of that nature, be attracted as it is well known that law leans in favour of those who are alert and vigilant.”

.....

16. On the preposition as noticed above, it is clear



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that the claim of the applicant for inclusion of her name in the panel, which was issued on 09.01.2001 and for the first time was raked up by her, by filing representation on 25.09.2007, i.e., after more than 06 and half years. The claim of inclusion in the panel had become stale by that time and filing of representation will not give any fresh cause of action. Thus, mere fact that representation was replied by Railways on 27.12.2007, a stale claim shall not become a live claim. Both Tribunal and High Court did not advert to this important aspect of the matter. It is further to be noted from the material on record that after declaration of panel on 09.01.2001, there were further selection under 30% promotion by LDCE quota, in which the applicant participated. In selection held in 2005 she participated and was declared unsuccessful. With regard to her non-inclusion in panel in 2005 selection, she also filed O.A. No. 629 of 2006 before the Tribunal, which was dismissed. After participating in subsequent selections under 30% quota and being declared unsuccessful, by mere



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filing representation on 27.09.2007 with regard to selection made in 2001, the delay and laches shall not be wiped out."

ix. Similarly reliance was also placed on SLP Civil (D) 18007/2019 (*Union of India and others vs. Gandiba Behera*) wherein it was held thus:

"The selection of an employee in regular post cannot also be predated because of delay on the part of the authorities in holding the selection process. We do not agree with the view of the High court on this count in judgments which form subject of appeal in Civil Appeal No.5008 of 2016, SLP (C) No.16767 of 2016, Civil Appeal No.8379 of 2016 and Civil Appeal No.10801 of 2016. Service tenure of an employee in a particular post cannot be artificially extended in that manner in the absence of any specific legal provision."

5. Therefore, it was argued by him that merely because Tribunal or the High Court has directed the officials to consider such cases which requires to predate the regularisation which was not possible due to a ban on recruitment the practicality has to be thought of. He further pointed out that the Tribunal relied on the Apex Court judgment in the case of Appeal (Civil) No.5739/2005 (*Union of India Vs. M.Mathivanan*) the facts of the



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WEB COPY case was totally different. The said Mathivanan had volunteered himself in Army Postal Services in 1983 and was appointed as a Regular Postal Assistant by the President of India with effect from 30.09.1983 and therefore, it was a unique case where he was regularised in 1983 itself and therefore, was eligible for the benefit of TBOP in 1999. This special case cannot be the norm, it was contended.

6. Per contra learned counsel for the respondents would contend as follows:

- i. The order of the Central Administrative Tribunal, Ernakulam Bench is directly applicable to the respondents because all the respondents were similarly placed. Those benefited by the decision of the Central Administrative Tribunal, Ernakulam Bench which was subsequently confirmed by the Kerala High Court, are all Postal Assistants recruited as RTPs (Reserved Trained Pool) and the respondents cannot be discriminated against as done by the petitioners.



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- ii. According to the counsel, the orders of Central Administrative Tribunal, Chennai Bench in O.A.No.1691 of 2016 was also based on the earlier order in O.A.Nos.1148, 1149 & 1240 of 2014 filed by three different similarly placed postal assistants.
- iii. It was also contended that all these orders in different O.As relied mainly on the order of Central Administrative Tribunal, Ernakulam Bench in O.A.No.79/2014 and batch cases and the orders passed by the Kerala High Court in O.P.(CAT) 89/2014 in the case of *K.S.Beena Vs. Union of India & Others*. The SLP filed by the Union of India in the Apex Court was also dismissed.
- iv. In such circumstances, the need to treat all the persons holding the same post and recruited under the same scheme of RTP are to be treated at par. Therefore, he pleaded that these writ petitions are liable to be dismissed.
- v. He also relied on the decision of the Apex Court in *K.C.Sharma & Others Vs. Union of India & Others* reported in 1998 SCC (L&S) 226 in which it was held that the benefit of the judgment to other



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WEB COPY similarly situated will not become time barred and delay or laches if any have to be condoned to enable the grant of relief on the same terms as given in the other judgments.

vi. He also relied on the decision of Apex Court in Appeal (Civil) No.5739/2005 (*Union of India Vs. M.Mathivanan*) in which TBOP benefits were allowed to him by the Apex Court confirming the judgment of High Court in W.P.No.25452/2002 of this Court though he was recruited as Postal Assistant in 1981 and placed in RTP.

7. Having gone through all the related papers including the judgment and rulings adduced on both sides it is essential to go into the genesis of constitution of a standing pool trained reserved candidates for Post and RMS offices. It is a well known fact that our Post and RMS offices have a huge network and infrastructure covering nook and corner of our country and play a very important role. It was in this context that the Director General, Post & Telegraphs Department, New Delhi had circulated on 30.10.1980 the details of the scheme of RTP. The major



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WEB COPY objective as could be deciphered from the copy of the letter dated 30.10.1980 circulated by the Director General, Post & Telegraphs Department is to bridge the gap between the occurrence of vacancy and placement of approved and trained candidates to fill the vacancies and also to cut down on the overtime arrangements which were fraught with inherent limitations. It was decided that at the time of each recruitment an additional list of candidates equal in number to 50% of candidates in the main list would be drawn up and imparted training similar to the candidates in the main list. It was also decided that they will be used against vacancy due to absenteeism or to handle peak hour traffic. It was also decided that they would be absorbed in the regular vacancies in turns after the main list candidates are absorbed. They were paid wages on hourly basis and the mandatory reservation policy was also applied on them at the time of selection itself and it was initially on an experimental basis for a period of one year. With this back drop the entire facts of these petitions have to be considered.



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8. The ban on recruitment was Pan India and was not something on which the petitioners have any role to play. It was the policy of the Government for Administrative reasons. It is also pertinent to refer at this juncture to the relevant portions of the judgment in *Union of India & Another Vs. K.N.Sivadas & Others* in Civil Appeal No. 5268/97 @ SLP[C] No. 17422/95}, Civil Appeal Nos. 126/96, 124-125/96, 127-130/96 & 131/96

"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 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



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WEB COPY 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). In other words, RTPs are claiming benefits for a period for which a similar benefit has not been conferred on casual labourers under the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme.*

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



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WEB COPY *obtained the benefit 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.*

In C.A. Nos. 124-125 of 1996 the respondents originally worked as Telegraph Assistants in various Central Telegraph Offices in their reserved trained pool and were absorbed in regular service in 1992. In their department, the scheme of temporary status and regularisation for casual labours has come into effect from 1.10.1989. 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 labourer and the Tribunal could not have equated the two.

In C.A. Nos. 127-130 of 1996 the RTPs who have been regularly absorbed in the year 1988 have been given the



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WEB COPY *benefit of counting their service as RTPs for the purpose of think eligibility to appear for the departmental examination. 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 benefit of service rendered by them prior to their regular appointment, for the purpose of their eligibility to appear for the departmental promotion examination."*

Though this case pertains to one K.N.Sivadas and few other Postal Assistants, who were in the RTP of Post and Telegraph offices and were the first to seek the legal remedy for getting all the benefits by pre-dating their regularisation from the date of their respective appointments, the comparison they made was with the casual labourers who were bestowed with certain benefits under Casual Labourers (grant of temporary status



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WEB COPY and regularisation) Scheme, 1989. There were also other rulings such as *Union of India vs. Gandiba Behera* in Civil Appeal No.8497/2009 which had clearly spelt out that predating regularisation is not acceptable. This was also highlighted by the learned counsel for the petitioner during the course of arguments.

9. Another issue which was raised by the learned counsel for the petitioners was regarding the inordinate delay on the part of the respondents who have approached the Tribunal only because some other employees of their own cadre in Kerala had raised the issue and got a favourable order from the Central Administrative Tribunal, Ernakulam Bench. In this regard, the learned counsel for the petitioner relied on 2006 (11) SCC 464 in the case of *U.P.Jal Nigam and Another vs. Jaswant Singh and Another* wherein it was held that

"16. Therefore, in case at this belated stage if similar relief is to be given to the persons who have not approached the court that will unnecessarily overburden the Nigam and the Nigam



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WEB COPY *will completely collapse with the liability of payment to these persons in terms of two years' salary and increased benefit of pension and other consequential benefits."*

10. As rightly pointed out by the learned counsel for the petitioners, the financial burden of implementing such a decision which has no element of legal justification. The Tribunal entirely relied on the decision *Union of India Vs. M.Mathivanan* case interpreting that the said Mathivanan was also a RTP candidate and just because he was absorbed in Army Postal Service he was considered favourably for grant of TBOP. The Tribunal had concluded RTPs whether in APS are regular postal services are equal and should be considered at par. It can be easily comprehended that this was one rare such case and can be only an exception and cannot be a rule. In fact in the said judgment the Apex Court took cognizance of the regularisation made consequent upon the appointment of the said Mathivanan in the Army Postal Service on regular basis which according to the Apex Court was clearly the date of regularisation. If the arguments of the respondents is to be taken into consideration the 16 year period (for TBOP) in the case of Mathivanan



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WEB COPY should have been 1997 and not 1999 as approved by the Apex Court.

Thus, it is clear that 16 year period for TBOP was calculated only from the date of regularisation and not from the date of initial appointment in RTP.

The decision of Central Administrative Tribunal, Ernakulam Bench, was definitely based on a wrong interpretation of the two Apex Court decisions in the cases of K.N.Sivadas and Mathivanan.

11. Now coming to the aspect of delay in claiming the benefit with retrospective effect, it is to be noted that though there is no specified time limit stipulated under any Act, the delay cannot be unexplained and unreasonable. In the present cases, it is seen that the respondents have neither challenged the ban on recruitment which according to them was the main cause of their belated regularisation nor given any representation to the petitioners seeking such relief immediately after their regularisation. It was only in the year 1996 that one of their colleagues had approached the appropriate legal forum to settle his issue of seeking similar benefits as provided for the casual labourers. The present respondents did not



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WEB COPY approach the employers with any representation even till 2013. It was only thereafter, they followed it up with OAs in Central Administrative Tribunal, Chennai Bench in 2014. This aspect of delay and laches is very important. In fact the Apex Court in the case of *Union of India & Others vs. C.Girija & Others, Meena Baskar vs. C.Girija & Others, C.Girija vs. Union of India & Others in Civil Appeal Nos.1577, 1578 of 2019 and Writ Petition (Civil) No.653 of 2015*, observed that

"13. This Court again in the case of Union of India and Others Vs. M.K. Sarkar, (2010) 2 SCC 59 on belated representation laid down following, which is extracted below:-

"15. When a belated representation in regard to a "stale" or "dead" issue/dispute is considered and decided, in compliance with a direction by the court/Tribunal to do so, the date of such decision cannot be considered as furnishing a fresh cause of action for reviving the "dead" issue or time-barred dispute. The issue of limitation or delay and laches should be considered with reference to the original cause of action and not with reference to the date on



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which an order is passed in compliance with a court's direction. Neither a court's direction to consider a representation issued without examining the merits, nor a decision given in compliance with such direction, will extend the limitation, or erase the delay and laches."

14. Again, this Court in State of Uttaranchal and Another Vs. Shiv Charan Singh Bhandari and Others, (2013) 12 SCC 179 had occasion to consider question of delay in challenging the promotion. The Court further held that representations relating to a stale claim or dead grievance does not give rise to a fresh following was laid down:-

"19. From the aforesaid authorities it is clear as crystal that even if the court or Tribunal directs for consideration of representations relating to a stale claim or dead grievance it does not give rise to a fresh cause of action. The dead cause of action cannot rise like a phoenix.

Similarly, a mere submission of representation to the competent authority does not arrest time."

This phrase that a dead cause of action cannot "rise like a phoenix " is very much applicable to the present facts of the case. In fact, as pointed out by the counsel for the petitioners such decisions without giving thought



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WEB COPY to the financial implications and practicality would only put the entire machinery of the petitioners under huge stress. There is also a possibility of such decisions being taken up by other departments and even by casual labourers and it would just be an endless stream of representations and litigations. The financial implications could be very stressful for an organisation like the petitioners' and merely because it is wholly owned by the Government of India does not entail implementations of such huge avoidable expenditure merely to comply with the directions of the Tribunal. The direction of the Tribunal to work out backwards from 1984 and implement such an exercise that when number of RTP was practically only a reserved list consisting of 50% of the main vacancies defies any logic. The primary object of the RTP was intended only to reduce the expenditure on overtime and also ensure smooth flow of work even in the exigency of absenteeism. But the impugned decisions of Central Administrative Tribunal, Chennai Bench would defeat the very purpose and concept of RTP. The respondents were not recruited as regular Postal Assistants and their appointment dates cannot be taken for calculating



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WEB COPY their service for any benefit. The only difference between the candidates under RTP and casual labourers was the assurance of regularisation. Having got an advantageous start in the beginning of their career, it appears that their demand for considering their service for all purposes including TBOP from the date of their initial appointment shows only the greed in them. As already elaborated the ban on recruitment was not the decision of the petitioners and the demands of the respondents smacks of unreasonableness. Again as rightly pointed out by the learned Additional Solicitor General, the Government of India's exchequer cannot be allowed to bleed to meet out such illogical demands and therefore, the orders of the Central Administrative Tribunal, Chennai Bench, are unacceptable and without any rationale. In this context, it is also pertinent to point out that the orders of the Central Administrative Tribunal, Ernakulam Bench in O.A.No.1410/1995 was set aside by Hon'ble Supreme Court in C.A.No.80-123/1996 wherein it was held that

"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



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WEB COPY *Tribunal was, therefore, wrong in granting to RTPs the benefit of service rendered by them prior to their regular appointment, for the purpose of their eligibility to appear for the departmental promotion examination."*

12. In view of the forgoing decision, it could be easily concluded that the decisions in all the OAs have been arrived at by the decision of Central Administrative Tribunal, Ernakulam Bench which was confirmed later by Kerala High Court. All the orders of Central Administrative Tribunal, Chennai, suffer from lack of application of mind on their part as they have not gone into merits and demerits of such an unprecedented decision. The delay of more than 3 decades would have resulted in many retirements on superannuation amongst the respondents and such a massive exercise of searching the records and arriving at even the minute details like break in service etc. is just next to impossible that too when the demands of the respondents are totally unethical and unreasonable.

13. In the result, all the Writ Petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed. The orders of the Central Administrative Tribunal, Chennai Bench, passed in O.A.No.1149 of 2014 dated 27.06.2019, O.A.No.1691 of 2016 dated



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20.08.2019, O.A.No.1240 of 2014 dated 27.06.2019 and O.A.No.1148
of 2014 dated 12.07.2019, are set aside.

(V.M.V.,J.) (R.H.,J.)
24.01.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
bga/mtl

V.M.VELUMANI, J.
and
R. HEMALATHA, J.
bga/mtl

To,
The Registrar,
Central Administrative Tribunal,
High Court Campus, Chennai - 104.

Pre-delivery Order in
W.P.Nos.13633 of 2020 and 1540, 289 & 188 of 2021
and W.M.P.Nos.16929 of 2020, 1743, 258 & 361 of 2021



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W.P.Nos.13633 of 2020 and 1540, 188 & 289 of 2021
and W.M.P.Nos.16929 of 2020, 1743, 258 & 361 of 2021

24.01.2023



WP.No.1373 of 2021

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2024

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

WP.No.1373 of 2021
and WMP.No.1545 of 2021

1.Union of India rep by
The Chief Postmaster General
Tamil Nadu Circle,
Anna Salai, Chennai – 2.

2.Deputy Director
Foreign Post,
Chennai – 600 001.

.. Petitioners

v.

1.The Registrar
Central Administrative Tribunal
High Court Campus,
Chennai – 600 104.

2.G.Rajarathinam

... respondents

Prayer : Petition filed under Article 226 of the Constitution of India
seeking to issue writ of certiorari to call for the records of 1st respondent
in OA.No.32 of 2016 dated 30.08.2019 in disposing the OA filed by the



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2nd respondent and quash the same.
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For Petitioners : Mr.AR.L.Sunderesan, ASG
assisted by
Mr.R.Subramanian, CGSC.

For Respondents : R1 – Tribunal
Mr.R.Malaichamy for R2.

ORDER

(Made by the Hon'ble Mr.Justice S.M.SUBRAMANIAM)

Under assail is the order dated 30.08.2019 passed in OA.No.32 of 2016 on the file of the Central Administrative Tribunal, Madras bench.

2. Union of India is the petitioner before us. The second respondent instituted Original Application in OA.No.32 of 2016, challenging the order of rejection issued by the second petitioner herein in proceedings dated 12.11.2015 and to direct the petitioners herein to extend the benefits of judgment made in OA.No.79 of 2011 and batch cases of Ernakulam bench of Central Administrative Tribunal dated 01.10.2013.



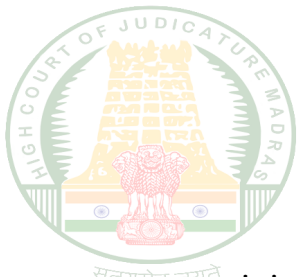
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3. The learned Additional Solicitor General of India Mr.AR.L.Sunderasan appearing on behalf of the petitioner would submit that the issues are no more res-integra and already decided by this Court elaborately considering the issues in a batch of writ petition filed in WP.Nos.13633 of 2020, 1540, 289 & 188 of 2021 dated 24.01.2023. The judgment relied on by the 2nd respondent before the Central Administrative Tribunal itself was set aside by the Division Bench of this Court in the judgment cited supra on 24.01.2023. Therefore, the present writ petition is to be considered.

4. Mr.Malaichamy, the learned counsel for the second respondent would oppose preliminarily by stating that the judgment of the Delhi Central Administrative Tribunal is taken by way of an appeal before the Hon'ble Supreme Court of India which is subjudice. The Delhi High Court held in favour of the employees. In the event of rejecting the appeal instituted by Union of India by the Hon'ble Supreme Court, the second respondent would be deprived of the benefits.

5. The learned Additional Solicitor General would contend that the



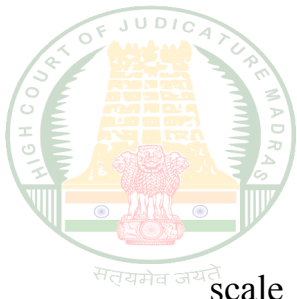
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original application is hit by principles of laches as the employees approached the Central Administrative Tribunal during their fag end of services. Monetary benefit under time bound one time promotion (TBOP) cannot be granted with retrospective effect. Since, the second respondent had not approached the Tribunal within the reasonable period of time, the claim if considered would unsettle the seniority and would cause greater financial implications to the Union of India.

6. The issue in nutshell to be considered is that the second respondent was initially recruited to the cadre of postal assistant in the year 1983. Admittedly, there was a ban on recruitment and therefore to mitigate the circumstances arose in the postal department, candidates were recruited and kept in reserved training pool. However, they were not appointed on regular basis nor their services were regularised from the date of initial recruitment. These employees were allowed to continue as reserved training pool employees on temporary basis and hourly basis salary was paid to them.

7. Admittedly, these employees were not appointed on regular time

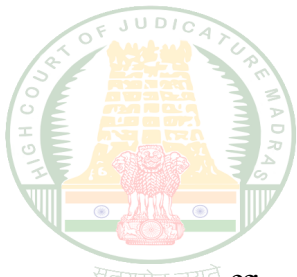


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scale of pay in the sanctioned post. Therefore, they were not become regular employees of the postal department. However, after lifting the ban by the Union of India, these reserved training pool employees were observed in the regular sanctioned vacancies in the time scale of pay and their services were regularised during the year 1988. The service of the second respondent was regularised with effect from 25.04.1988. The second respondent continued in service and reached the age of superannuation on 31.05.2015.

8. The date of regularisation of service in the regular post with effect from 25.04.1988 was taken into consideration for the purpose of reckoning seniority grant of TBOP and other monetary benefits including upgradation of monetary benefits. The TBOP was granted to the second respondent with effect from 15.05.2004 and MACP-II was granted with effect from 01.09.2008. Even after receiving the monetary benefits from and out of TBOP and thereafter under MACP-II, the second respondent has not claimed any further benefit and accepted those benefits. That being the factum now belatedly he cannot claim the benefit based on the judgment of the Kerala Bench of the Central Administrative Tribunal as



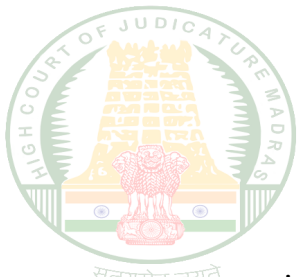
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affirmed by the Division Bench of the Kerala High Court.

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9. Since, the issues are already covered and the coordinate division Bench of this Court elaborately considered the inordinate delay in approaching the Central Administrative Tribunal as well as the eligibility for claiming the monetary benefit with retrospective effect from the date of recruitment, it become unnecessary for us to reconsider those issues. However, the legal principles settled is that the regular monetary benefits granted under TBOP and MACP-II are to be granted with effect from the date of regular appointment of an employee. In other words, an employee after becoming a member of regular service is eligible for all service benefits, under the Rules.

10. In the present case, admittedly the second respondent was initially engaged as reserved training pool employee on temporary basis and was receiving hourly basis salary. Further, his engagement was on need basis. Subsequently, his services were regularised with effect from 25.04.1988 and it is not in dispute that all service benefits to the second respondent are granted with effect from the date of his regular



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appointment in the sanctioned post with effect from 25.04.1988.

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11. The Original Application itself was filed in the year 2016 after attaining the age of superannuation in the year 2015. Thus the claim of the second respondent is belated and the Original Application was filed after retirement claiming monetary benefit from the date of initial recruitment as reserved training pool employee. Thus the claim of the respondent deserves no merit consideration.

12. The consideration of the issues regarding delay and on merits in the batch of writ petitions by coordinate bench of this court are extracted hereunder :-

“7. Having gone through all the related papers including the judgment and rulings adduced on both sides it is essential to go into the genesis of constitution of a standing pool trained reserved candidates for Post and RMS offices. It is a well known fact that our Post and RMS offices have a huge network and infrastructure covering nook and corner



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of our country and play a very important role. It was in this context that the Director General, Post & Telegraphs Department, New Delhi had circulated on 30.10.1980 the details of the scheme of RTP. The major objective as could be deciphered from the copy of the letter dated 30.10.1980 circulated by the Director General, Post & Telegraphs Department is to bridge the gap between the occurrence of vacancy and placement of approved and trained candidates to fill the vacancies and also to cut down on the overtime arrangements which were fraught with inherent limitations. It was decided that at the time of each recruitment an additional list of candidates equal in number to 50% of candidates in the main list would be drawn up and imparted training similar to the candidates in the main list. It was also decided that they will be used against vacancy due to absenteeism or to handle peak hour traffic. It was also decided that they would be absorbed in the



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regular vacancies in turns after the main list candidates are absorbed. They were paid wages on hourly basis and the mandatory reservation policy was also applied on them at the time of selection itself and it was initially on an experimental basis for a period of one year. With this back drop the entire facts of these petitions have to be considered.

8. The ban on recruitment was Pan India and was not something on which the petitioners have any role to play. It was the policy of the Government for Administrative reasons. It is also pertinent to refer at this juncture to the relevant portions of the judgment in Union of India & Another Vs. K.N.Sivadas & Others in Civil Appeal No. 5268/97 @ SLP[C] No. 17422/95}, Civil Appeal Nos. 126/96, 124-125/96, 127-130/96 & 131/96

"The position of RTPs is quite different. In the first place, the very scheme which



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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 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



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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). In other words, RTPs are claiming benefits for a period for which a similar benefit has not been conferred on casual labourers under the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme.

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 benefit of absorption in regular service because of their own scheme. They, therefore, cannot, on the one hand, avail of



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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.

In C.A. Nos. 124-125 of 1996 the respondents originally worked as Telegraph Assistants in various Central Telegraph Offices in their reserved trained pool and were absorbed in regular service in 1992. In their department, the scheme of temporary status and regularisation for casual labours has come into effect from 1.10.1989. 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 labourer and the Tribunal could not have equated the two.

In C.A. Nos. 127-130 of 1996 the RTPs who have been regularly absorbed in the year



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1988 have been given the benefit of counting their service as RTPs for the purpose of think eligibility to appear for the departmental examination. 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 benefit of service rendered by them prior to their regular appointment, for the purpose of their eligibility to appear for the departmental promotion examination."

Though this case pertains to one K.N.Sivadas and few other Postal Assistants, who were in the RTP of Post and Telegraph offices and were the first to seek the legal remedy for getting all the benefits by pre-dating



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their regularisation from the date of their respective appointments, the comparison they made was with the casual labourers who were bestowed with certain benefits under Casual Labourers (grant of temporary status and regularisation) Scheme, 1989. There were also other rulings such as Union of India vs. Gandiba Behera in Civil Appeal No.8497/2009 which had clearly spelt out that predating regularisation is not acceptable. This was also highlighted by the learned counsel for the petitioner during the course of arguments.

9. Another issue which was raised by the learned counsel for the petitioners was regarding the inordinate delay on the part of the respondents who have approached the Tribunal only because some other employees of their own cadre in Kerala had raised the issue and got a favourable order from the Central Administrative Tribunal, Ernakulam Bench.



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In this regard, the learned counsel for the petitioner relied on 2006 (11) SCC 464 in the case of U.P.Jal Nigam and Another vs. Jaswant Singh and Another wherein it was held that

"16. Therefore, in case at this belated stage if similar relief is to be given to the persons who have not approached the court that will unnecessarily overburden the Nigam and the Nigam will completely collapse with the liability of payment to these persons in terms of two years' salary and increased benefit of pension and other consequential benefits."

10. As rightly pointed out by the learned counsel for the petitioners, the financial burden of implementing such a decision which has no element of legal justification. The Tribunal entirely relied on the decision Union of India Vs. M.Mathivanan case interpreting that the said Mathivanan was also a RTP candidate and just because he was absorbed in Army Postal Service he was considered favourably for



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grant of TBOP. The Tribunal had concluded RTPs whether in APS are regular postal services are equal and should be considered at par. It can be easily comprehended that this was one rare such case and can be only an exception and cannot be a rule. In fact in the said judgment the Apex Court took cognizance of the regularisation made consequent upon the appointment of the said Mathivanan in the Army Postal Service on regular basis which according to the Apex Court was clearly the date of regularisation. If the arguments of the respondents is to be taken into consideration the 16 year period (for TBOP) in the case of Mathivanan should have been 1997 and not 1999 as approved by the Apex Court. Thus, it is clear that 16 year period for TBOP was calculated only from the date of regularisation and not from the date of initial appointment in RTP. The decision of Central Administrative Tribunal, Ernakulam Bench, was definitely based on a wrong interpretaions of the two



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Apex Court decisions in the cases of K.N.Sivadas and Mathivanan.

11. Now coming to the aspect of delay in claiming the benefit with retrospective effect, it is to be noted that though there is no specified time limit stipulated under any Act, the delay cannot be unexplained and unreasonable. In the present cases, it is seen that the respondents have neither challenged the ban on recruitment which according to them was the main cause of their belated regularisation nor given any representation to the petitioners seeking such relief immediately after their regularisation. It was only in the year 1996 that one of their colleagues had approached the appropriate legal forum to settle his issue of seeking similar benefits as provided for the casual labourers. The present respondents did not approach the employers with any representation even till 2013. It was only



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thereafter, they followed it up with OAs in Central Administrative Tribunal, Chennai Bench in 2014. This aspect of delay and laches is very important. In fact the Apex Court in the case of Union of India & Others vs. C.Girija & Others, Meena Baskar vs. C.Girija & Others, C.Girija vs.Union of India & Others in Civil Appeal Nos.1577, 1578 of 2019 and Writ Petition (Civil) No.653 of 2015, observed that

"13. This Court again in the case of Union of India and Others Vs. M.K. Sarkar, (2010) 2 SCC 59 on belated representation laid down following, which is extracted below:-

"15. When a belated representation in regard to a "stale" or "dead" issue/dispute is considered and decided, in compliance with a direction by the court/Tribunal to do so, the date of such decision cannot be considered as furnishing a fresh cause of action for reviving the "dead" issue or time-barred dispute. The issue of limitation or delay and laches should be considered with reference to the original cause of action and not with reference to the date on which



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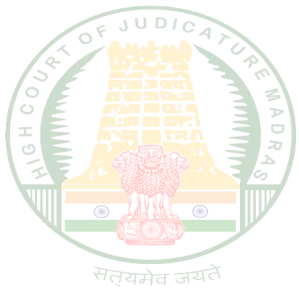
an order is passed in compliance with a court's direction. Neither a court's direction to consider a representation issued without examining the merits, nor a decision given in compliance with such direction, will extend the limitation, or erase the delay and laches."

14. Again, this Court in State of Uttaranchal and Another Vs. Shiv Charan Singh Bhandari and Others, (2013) 12 SCC 179 had occasion to consider question of delay in challenging the promotion. The Court further held that representations relating to a stale claim or dead grievance does not give rise to a fresh following was laid down:-

"19. From the aforesaid authorities it is clear as crystal that even if the court or Tribunal directs for consideration of representations relating to a stale claim or dead grievance it does not give rise to a fresh cause of action. The dead cause of action cannot rise like a phoenix.

Similarly, a mere submission of representation to the competent authority does not arrest time."

This phrase that a dead cause of action cannot "rise like a phoenix " is very much applicable to the



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present facts of the case. In fact, as pointed out by the counsel for the petitioners such decisions without giving thought to the financial implications and practicality would only put the entire machinery of the petitioners under huge stress. There is also a possibility of such decisions being taken up by other departments and even by casual labourers and it would just be an endless stream of representations and litigations. The financial implications could be very stressful for an organisation like the petitioners' and merely because it is wholly owned by the Government of India does not entail implementations of such huge avoidable expenditure merely to comply with the directions of the Tribunal. The direction of the Tribunal to work out backwards from 1984 and implement such an exercise that when number of RTP was practically only a reserved list consisting of 50% of the main vacancies defies any logic. The primary object of the RTP was intended only to reduce the



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expenditure on overtime and also ensure smooth flow of work even in the exigency of absenteeism. But the impugned decisions of Central Administrative Tribunal, Chennai Bench would defeat the very purpose and concept of RTP. The respondents were not recruited as regular Postal Assistants and their appointment dates cannot be taken for calculating their service for any benefit. The only difference between the candidates under RTP and casual labourers was the assurance of regularisation. Having got an advantageous start in the beginning of their career, it appears that their demand for considering their service for all purposes including TBOP from the date of their initial appointment shows only the greed in them. As already elaborated the ban on recruitment was not the decision of the petitioners and the demands of the respondents smacks of unreasonableness. Again as rightly pointed out by the learned Additional Solicitor General, the Government



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of India's exchequer cannot be allowed to bleed to meet out such illogical demands and therefore, the orders of the Central Administrative Tribunal, Chennai Bench, are unacceptable and without any rationale. In this context, it is also pertinent to point out that the orders of the Central Administrative Tribunal, Ernakulam Bench in O.A.No.1410/1995 was set aside by Hon'ble Supreme Court in C.A.No.80-123/1996 wherein it was held that

"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 benefit of service rendered by them prior to their regular appointment, for the purpose of their eligibility to appear for the departmental promotion examination."

12. In view of the forgoing decision, it could be easily concluded that the decisions in all the OAs



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have been arrived at by the decision of Central Administrative Tribunal, Ernakulam Bench which was confirmed later by Kerala High Court. All the orders of Central Administrative Tribunal, Chennai, suffer from lack of application of mind on their part as they have not gone into merits and demerits of such an unprecedented decision. The delay of more than 3 decades would have resulted in many retirements on superannuation amongst the respondents and such a massive exercise of searching the records and arriving at even the minute details like break in service etc. is just next to impossible that too when the demands of the respondents are totally unethical and unreasonable.

13. In the result, all the Writ Petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed. The orders of the Central Administrative Tribunal, Chennai Bench, passed in O.A.No.1149 of 2014 dated 27.06.2019,



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O.A.No.1691 of 2016 dated 20.08.2019, O.A.No.1240 of 2014 dated 27.06.2019 and O.A.No.1148 of 2014 dated 12.07.2019, are set aside.”

13. Since the facts of the present case is similar and the legal issues were elaborately considered by the coordinate bench of this Court, we have no other reason to take a different view. Consequently the impugned order passed by the Central Administrative Tribunal in OA.No.32 of 2016 dated 30.08.2018 is set aside.

14. In the result, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S., J) (M.J.R., J)
04.11.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No
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To



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The Registrar
Central Administrative Tribunal
High Court Campus,
Chennai – 600 104.

S.M. SUBRAMANIAN, J.
and
M. JOTHIRAMAN, J.

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04.11.2024

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OF C.A.T. (PROCEDURE) RULES

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.Nos.1178/96, 1184/96, 1288/96,1289/96,
1339/96, 1342/96, 1343/96, 1358/96, 1359/96, 1360/96,
1490/96, 2/97, 3/97, 4/97, 15/97, 69/97, 137/97,
144/97, 149/97, 200/97, 204/97, 219/97, 239/97,
276/97, 284/97, 285/97, 341/97, 365/97, 398/97,
447/97, 464/97, 503/97, 504/97, 524/97, 1025/97 &
1400/97.

Thursday this the 30th day of September,1999.

CORAM:

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE MR.G.RAMAKRISHNAN, MEMBER(A)

O.A.1178/96

1. Chenchulakshmi, Postal Assistant,
Quilandi P.O., Calicut.
2. Sri Unni N.P. Postal Assistant,
Calicut Civil Station Post Office, Calicut.
3. Sri I.Vijayan, Postal Assistant,
Koduvally Post Office, Calicut.
4. Sri Sivasankaran A,
Office Assistant,
Senior Superintendent of Post Offices,
Calicut.
5. Smt.L.N.Neena, Postal Assistant,
Calicut Head Post Office, Calicut.
6. Sri N.K.Premarajan, Postal
Assistant, Pantheerankav Post Office, Calicut.
7. Smt.V.Radha, Postal Assistant,
Calicut Head Post Office, Calicut.
8. Smt.P.Usha, Postal Assistant,
Chalapuram Post Office, Calicut.
9. Smt. M.T.Suseela, Postal Assistant,
Calicut Head post Office, Calicut.
10. Smt.Pankajakshy V.
Postal Assistant, Kalpetta,
Head Post Office, Calicut Division, Calicut.
11. Smt.Geetha Thomas, Postal Assistant,
Regional Engineering College Post
Office, Calicut.
12. Smt.Sherly Varghese,
Postal Assistant, Koduvally Post Office,Calicut.
13. Smt.Santhakumari N,
Postal Assistant,
Calicut Head Post Office, Calicut.



14. Smt.V.P. Ragini,
Postal Assistant, Calicut,
Medical College Post Office, Calicut.
15. Smt.Sobhanakumari C.P
Postal Assistant,
Kakkodi P.O, Calicut.
16. Smt.Sathichandran ,L.D.Clerk,
Deputy Director of Postal Accounts Office,
Trivandrum.
17. Sri Ramachandran P.K.
Postal Assistant,
Pulpally P.O, Wayanad.
18. Sri N.Premarajan, Postal Assistant,
Calicut Head Post Office, Calicut.
19. Sri M.Suresh Kumar, Postal Assistant,
Calicut Head Post Office, Calicut.
20. Sri Janardhanan K.T.
Office Assistant,
Senior Superintendent of Post Office, Calicut.
21. Smt. Latha K.V, Office Assistant,
Senior Superintendent of Post Offices, Calicut.
22. Smt.Sobhana E.T., Postal Assistant,
Calicut Head Post Office, Calicut.
23. Smt.Mercy Mathew, Postal Assistant,
Athiyodi P.O., Calicut.
24. Smt. Rejini N, Postal Assistant,
Calicut Head Post Office, Calicut.
25. Smt.P.V.Sreedevi, Postal Assistant,
Kenichira Post Office, Wynad.
26. Sherly T.N., Postal Assistant,
Calicut Civil Station Head Post Office,
Calicut.
27. Smt.Prema M, Postal Assistant,
Calicut Civil Station Post Office, Calicut.
28. Sri Johnson P.C., Postal Assistant
Kuttiadi Post Office, Calicut Division, Calicut.
29. Smt.Ambika P, Postal Assistant,
Calicut Head post Office, Calicut.
30. Sri Baby Mathew, Postal Assistant,
Calicut Head Post Office, Calicut.

(By Advocate Mr.N.N.Sugunapalan)

vs.

Union of India represented by its
Secretary, Department of P&T, Govt. of India, New Delhi.

Chief Post Master General,
Kerala Circle, Thiruvananthapuram.

Senior Superintendent of Post Offices,
Calicut Division, Calicut.

4. Senior Superintendent of Post Offices,
Wynad Division, Wynad.
5. Senior Superintendent of Post Offices,
Thiruvananthapuram Division,
Thiruvananthapuram. .. Respondents

(By Advocate Mr.Govindh K.Bharathan, SCGSC)

O.A.1184/96

1. S.Viswanathan Nair, Postal Assistant,
Thiruvananthapuram Museum Post Office,
Thiruvananthapuram.
2. N.Harikumar, Office Assistant,
Office of the Executive Engineer,
Postal Civil Division, Thiruvananthapuram.
3. S.Udayakumar, Postal Assistant,
General Post Office,
Thiruvananthapuram.
4. M.K.Ramesh, Accountant,
Office of the Senior Superintendent of
Post Offices, Thiruvananthapuram North Division
Thiruvananthapuram-23.
5. T.M.Krishnaswamy, Office Assistant,
Office of the Senior Superintendent
of Post Offices, Thiruvananthapuram North Division,
Thiruvananthapuram-33.
6. N.Sureshkumar, Postal Assistant,
General Post Office,
Thiruvananthapuram.
7. V.S.Satheeshchandra Kumar,
postal Assistant,
Thiruvananthapuram General Post Office,
Thiruvananthapuram.
8. K.V.Vijayakumar, Accountant,
General Post Office, Thiruvananthapuram.
9. Sheela L., Postal Assistant,
Accountant General's Post Office,
Thiruvananthapuram.
10. Rema.L, Postal Assistant,
University Post Office,
Thiruvananthapuram.
11. Sreelatha.S., Postal Assistant,
Vanchiyoor Post Office,
Thiruvananthapuram.



12. Mary M.A., Postal Assistant,
Kunnukuzhy Post Office,
Thiruvananthapuram.
13. G.Jayalakshmy, Postal Assistant,
General Post Office,
Thiruvananthapuram.
14. S.P.Kumari Sheeja,
Postal Assistant,
Muttada Post Office,
Thiruvananthapuram.
15. Suma.S., Postal Assistant,
Pattom Palace Post Office,
Thiruvananthapuram.
16. V.Kasthuri Bai, Postal Assistant,
Museum Post Office,
Thiruvananthapuram.
17. M.N.Asithakumari,
Sub Postmaster,
Sainik School Post Office,
Thiruvananthapuram.
18. Maya P.S., Postal Assistant,
General Post Office, Thiruvananthapuram.
19. Zeenath.S., Sub Postmaster,
Sreenivasapuram Post Office,
Thiruvananthapuram.
20. S.Geethakumary, Postal Assistant,
Vadaserikonam Post Office,
Thiruvananthapuram.
21. V.Mary Vimala, Postal Assistant,
Marthandam Post Office, Thiruvananthapuram.
22. M.Salim Kumar, Office Assistant,
Office of the Senior Superintendent of
Post Offices, Thiruvananthapuram
North Division, Thiruvananthapuram-33.
23. A.Radha, Postal Assistant,
Thiruvananthapuram Fort Post Office,
Thiruvananthapuram.
24. R.Krishnakumari, Postal Assistant,
General Post Office,
Thiruvananthapuram.
25. Mini.R.Nair, Postal Assistant,
Office of the Superintendent of Post Offices,
Thrissur-1.

(By Advocate Sri N.N.Sugunapalan)

vs.

Union of India, represented by
its Secretary, Department of Posts,
Government of India, New Delhi.

2. Chief Postmaster General,
Kerala Circle,
Thiruvananthapuram-33.
3. Senior Superintendent of Post Offices,
Thiruvananthapuram North Division,
Thiruvananthapuram.
4. Senior Superintendent of Post Offices,
Thrissur- 680 001.

..Respondents

(By Advocate Mr.Mathews J.Nedumpara, ACGSC)

O.A. 1288/96

1. Babu Thomas, Postal Assistant,
Tiruvalla Post Office,
Tiruvalla Division, Tiruvalla.
2. S.Kamaraj, Postal Assistant,
Edayaranmula Post Office,
Tiruvalla Division, Tiruvalla.
3. K.K.Gopinathan Nair, Postal
Assistant, Kottanad Post Office,
Tiruvalla Division, Tiruvalla.
4. Rema Paul(Rema Cherian),
Postal Assisant,
Trivandrum General Post Office,
Trivandrum North Division, Trivandrum.
5. Rajalakshmi Antharjanam C.B.,
Postal Assistant,
Trivandrum General Post Office,
Trivandrum North Division,
Trivandrum.
6. K.Ushadevi, Postal Assistant,
Trivandrum General Post Office,
Trivandrum North Division,
Trivandrum.
7. P.Geetha Devi, Postal Assistant,
Trivandrum University,
Trivandrum North Division, Trivandrum.
8. Jayasree, Postal Assistant,
Murukumpuzha Post Office,
Trivandrum North Division, Trivandrum.
9. M.R.Reghunandan, Postal Assistant,
Chengannur Post Office,
Tiruvalla Division, Tiruvalla.
10. P.N.Raveendran Pillai, Postal Assistant,
Chengannur Post Office,
Tiruvalla Division, Tiruvalla.



11. Beena Susan Mathew, Office Assistant,
Office of Superintendent of Post Office,
Tiruvalla Division, Tiruvalla.
12. P.R.Remadevi, Postal Assistant,
Tiruvalla Post Office, Tiruvalla Division,
Tiruvalla. ..Applicants

(By Advocate Mr.N.N.Sugunapalan)

vs.

1. Union of India, represented by its
Secretary, Department of Post,
Government of India, New Delhi.
2. The Chief Post Master General,
Kerala Circle, Trivandrum.
3. The Senior Superintendent of Post Offices,
Tiruvalla Division; Tiruvalla.
4. The Senior Superintendent of Post Offices,
Trivandrum North Division, Trivandrum.

(By Advocate Mr.James Kurien, ACGSC)

..Respondents

O.A.1289/96

1. A.Gangadharan Nair,
Postal Assistant , Karaparamba Post Office,
Karaparamba, Calicut.
2. M.M.Appukuty,
postal Assistant,
Chalapuram Post Office,
Calicut.
3. C.Jayalatha,
Postal Assistant,
Feroke Post Office, Calicut.
4. C.P.Subba,
Postal Assistant,
West Hill Post Office,
Calicut.
5. Nandini Edavalath,
Postal Assistant,
Calicut Civil Station,
Head Office, Calicut.
6. P.C.Sunila,
Postal Assistant,
Elathur Post Office, Calicut.

(By Advocate Mr.N.N.Sugunapalan)

..Applicant

vs.

1. Union of India, represented
by the Secretary,
Department of Posts,
Dak Bhavan, New Delhi.

enlisted as Reserve Trained Pool (RTP for short) candidates pursuant to a Scheme conveyed by the letter of the Director General of Posts, New Delhi dated 30.10.1980. According to the Scheme at the time of each recruitment after the main merit list upto the number of vacancies announced is drawn up, a specific additional reserve list of candidates equal to 50% of the number of candidates in the main list was to be drawn up. These candidates in the Reserve List were also to be imparted training along with those in the main list. Those placed in the reserve list were treated as stand by. Excepting those who would be brought into the main list against drop outs, others were to constitute a Reserved Trained Pool to be absorbed against subsequent vacancies in their turn. Till they would be absorbed in regular service in their turn as Postal Assistants, their services were to be utilised according to the need of the Department against leave vacancies, due to absentism or any other unforeseen reason and also to handle peak hour traffic as short duty assistance on hourly basis payment. The applicants in these cases were enlisted under the above Scheme during the period 1982-83. They were all later regularised as Postal Assistants, LDCs etc. during the period from 1986 to 1990. After regularisation they were treated as regular Postal employees. Their grievance is that the period during which they were working as R.T.P short duty Postal Assistants, Sorting Assistants etc. has not been treated as regular service. Alleging that they were performing the same duties as regular Postal Assistants from the day they were enlisted as R.T.P. Postal Assistants, the applicants have prayed in all these applications that it may be declared that the applicants are entitled for seniority and



15. K.Sindhu, Postal Assistant,
Trichur Division.
16. K.Padmavathy Thambai, Postal Assistant,
Trichur Division.
17. V.N.Usha, Postal Assistant,
Trichur Division.
18. P.Raghunath, Postal Assistant,
Trichur Division.
19. V.S.Sheeja, Postal Assistant,
Trichur Division.
20. T.R.Sajithakumari, Postal Assistant,
Trichur Division.
21. K.Usha Devi, Postal Assistant,
Trichur Division.
22. P.V.Balan, Postal Assistant,
Trichur Head Post Office.
23. S.Vasanthakumari, Postal Assistant,
Trichur Head Post Office. ..Applicants

(By Advocate Mr.P.Ramakrishnan)

vs.

1. Union of India, represented by its Secretary,
Department of Posts, New Delhi.
2. The Chief Post Master General,
Kerala Circle, Trivandrum.
3. The Senior Superintendent of Post Offices,
Department of Posts, Trichur. ..Respondents

(By Advocate Sri Govindh K.Bharathan, SCGSC)

These Applications having been heard on 12.8.99, the Tribunal on 30.9.99 delivered the following:

O R D E R

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

The facts, circumstances and the question of law involved in all these cases being identical, these cases are being heard and disposed of by this common order.

2. The applicants in all these cases were initially

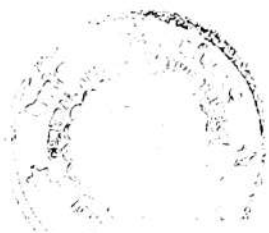
had in O.A.1813/93 and in O.A.1410/95 granted the benefit of seniority to R.T.Ps from the date of their initial engagement as R.T.Ps and therefore the respondents are bound to treat the applicants who are similarly situated in a like manner. We have gone through the two judgments referred to by the learned counsel of the applicants but do not find any adjudication of the rights of the R.T.Ps. with reference to the rival contentions. Further it is evident that the judgment of the Tribunal in K.N.Sivadas & others vs. Union of India and others, O.A. 814 of 1990 dated 21.4.1992 on the same issue was not noticed by the Benches. In the judgment in O.A.814/1990 and connected cases the Bench of which one of us (Hon'ble Shri A.V.Haridasan, Vice Chairman) was a party, after considering all the factual and legal aspects held:

" Hence the services of the applicants as R.T.P. Postal Assistants being only on hourly basis cannot be considered as adhoc or officiating service as against post to be entitled for reckoning the service for the purpose of seniority and other service benefits on their subsequent regularisation".

However, noting that the services of the R.T.Ps had been utilised continuously for a long time the Original Applications were disposed of with the following directions:

"8. In the conspectus of facts and circumstances, we dispose of these applications with the following directions:

- a) Those of the applicants in these cases who after their recruitment as RTP candidates have been rendering service for 8 hours a



all service benefits from the initial date of their appointment as R.T.P. Postal Assistants and that necessary instruction may be issued to the respondents to give the applicants the consequential benefits. It has been alleged in some of the applications that the R.T.P. Postal Assistants similar to the applicants in these cases have been granted seniority and other benefits from the date of their appointment as R.T.Ps on the basis of the order of this Tribunal in O.A.No.1813 of 1993 and O.A.No.1410 of 1995 and that the applicants are also entitled to the same benefits.

3. The respondents contend that as the R.T.P Postal Assistants were enlisted as a stand by under the Scheme for being trained and to be absorbed in vacancies that were not announced but would arise later, they would become regular employees of the Department only on their absorption as Postal Assistants and that the short duty rendered by them on hourly remuneration cannot be treated as service for seniority or any other benefits. They contend that R.T.Ps similar to the applicants had filed a number of applications claiming seniority, and many other benefits, that a batch of these cases O.A.814/90 and connected cases were disposed of by the Tribunal by a common order dated 21.4.1992 rejecting their claim for seniority etc. but granting certain benefits which were available to the casual labourers who had attained temporary status and that the respondents have filed SLP before the Hon'ble Supreme Court against the above direction. As the respondents pray that as the applicants are not entitled to any relief as prayed for the applications may be dismissed.

4. We have heard the learned counsel for the parties and have also examined the pleadings and documents very carefully. Learned counsel of the applicants argued that the Tribunal

day continuously on completion of one year of such service, should be deemed to have attained temporary status and half the period of eight hours a day service after attaining temporary status should be reckoned for the purpose of qualifying service for pension.

- b) All other benefits if any available to the casual mazdoors after attaining temporary status and subsequent regularisation under the scheme should also be extended to the applicants if they satisfy the above conditions;
- c) The applicants should be paid productivity linked bonus if like casual labourers they had put in 240 days of service each year for 3 years or more as on 31st March of each bonus year after their recruitment as RTP candidates, i.e. the benefit of the judgment in O.A.612/89 and O.A.171/89 should be extended to the applicants in all these cases."

The Union of India challenged the order of the Tribunal in O.A.814/90 and connected cases before the Hon'ble Supreme Court. This SLP along with similar other cases were decided by the Hon'ble Supreme Court vide Union of India and others vs. K.N. Sivadas and others reported in AIR 1997 SC 3100. The Apex Court reversed the order of this Bench of the Tribunal in O.A.814/90 holding that the R.T.Ps were not even entitled to the benefits which were available to casual labourers. Regarding the services of the R.T.Ps and the benefit due on such services, the Apex Court held:

" In C.A.Nos 127-130 of 1996 the RTPs who have been regularly absorbed in the year 1988 have been given the benefit of counting their service as RTPs for the purpose of their eligibility to appear for the departmental examination. 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 benefit of service rendered by them prior to their regular appointment, for the purpose of their eligibility to appear for the departmental promotion examination."

In the light of the pronouncement of the Apex Court in Union of India vs. K.N.Sivadas and others, there is absolutely no merit in the claim of the applicants ^{by}reckoning their service as R.T.Ps for seniority, regularisation and other service benefits. In the light of the above discussion, we dismiss these applications leaving the parties to bear their own costs.

sdl/-
G. RAMAKRISHNAN
MEMBER (A)



/njj/

sdl/-
A.V. HARIDASAN
VICE CHAIRMAN

CERTIFIED TRUE COPY
Date 12.10.99

[Signature]
Deputy Registrar