

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

OA/21/322/2021

HYDERABAD, this the 10th day of June, 2022

Hon'ble Mr. Ashish Kalia, Judl. Member



Smt Dhana Bhagyam,
W/o. Kanda Swamy,
Aged about 50 years,
Occ: Sweeper & Waterman,
O/o. Himmatnagar Sub Post Office,
Secunderabad, R/o. H.No.10-5-698,
Sai Nagar, Thukaramgate,
North Lallaguda, Secunderabad – 500 017.

... Applicant

(By Advocate : Mr. B. Pavan Kumar)

Vs.

1. Union of India rep. by
Chief Postmaster General,
Telangana Circle, Dak Bhavan,
Hyderabad – 500 001.
2. The Director of Postal Services,
O/o. Postmaster General,
Hyderabad City Region, Hyderabad – 1.
3. The Senior Superintendent of Post Office,
Secunderabad Division,
Hyderabad – 500 080.

... Respondents

(By Advocate: Mr. V. Venu Madhava Swamy, Sr. PC to CG)

ORAL ORDER

(As per Hon'ble Mr. Ashish Kalia, Judl. Member)

Through Video Conferencing:

The present O.A. is filed seeking the following reliefs:

“.....to call for the records pertaining to the 3rd respondent Lr. No.BIII/ Part Time Cont/Dlgs dated 12.2.2021 rejecting the claim of the applicant for regularization on the ground that as per the office records no appointment orders were issued to the applicant and declare the same as illegal, arbitrary, violative of Article 14 and 16 of the Constitution of India and rules on the subject matter and consequently, direct the respondents to regularize the services of the applicant from the date of her entitlement with all consequential benefits in the interest of justice....”

2. The brief facts of the case are that the father of the applicant Sri Venkataramana retired as Class IV in the respondent's organization. The applicant was engaged as Contingent Sweeper on 22.11.1990 as per the order book dated 22.11.1990 as available in the letter dated 18.3.1991 of Sub Postmaster, Himmathnagar, Secunderabad. She was initially paid Rs.1000/- p.m. as consolidated pay from 22.11.1990, which was later raised from time to time and now she is being paid Rs.10,000/- p.m. as consolidated pay. Since 1990 she has been working as contingent sweeper in the respondent's office.

3. It is submitted that in pursuance of the directions of the Hon'ble Supreme Court and following the scheme of DOPT, Department of Posts has introduced Casual Labourers (Grant of Temporary Status and Regularization) Scheme, 1993 w.e.f. 1.9.1993 for conferment of Temporary Status on the casual labourers in employment as on 29.11.1989 and who continued to be currently



employed and have rendered continuous service of at least one year; during the year they must have been engaged for a period of 240 days (206 days in the case of offices observing five days a week) vide Dept. of Posts letter dated 12.4.1991. Subsequently, it was amended vide letter dated 8.11.1995, extending the scheme to all those full time casual labourers recruited after 29.11.1989 and up to 1.9.1993. It is further submitted that the Department of Posts vide letter dated 16.9.1992 directed the authorities to examine whether part time casual labourers who are working for five hours or more could be made full time by readjustment or combination of duties. It is contended by the applicant that being a sweeper engaged on 22.11.1990, she should have been considered for regularization in terms of the Schemes dated 12.4.1991, 16.9.1992 & 8.11.1995. It is further submitted that subsequent to the judgement dated 10.4.2006 of the Hon'ble Supreme Court in Secretary, State of Karnataka & Others vs Uma Devi in Appeal (Civil) No.3595-3612 of 1999 (batch), the departments were directed to consider the left out cases of those casual labourers who worked for 10 years or more prior to the date of the Hon'ble Apex Court judgement. But the case of the applicant was not considered. As such, the applicant made a representation on 24.01.202. The same was rejected by the 3rd respondent vide letter dated 12.2.2021 on the ground that as per the office records, no appointment orders were issued to the applicant. The applicant was directed to submit appointment order, if any, issued by ASPOs or SSPOs for taking necessary action. Aggrieved over the same, the applicant has filed the present O.A.



4. Notices were issued and the respondents have filed reply stating that in compliance of the judgement of the Hon'ble Supreme Court in Uma Devi's case, Ministry of Communications & IT, Department of Posts (Personnel Division) issued ruling in Policy in respect of Casual Labourers working in the Department stipulating that 'a casual labourer engaged without following the due process or the rules relating to appointment and who does not meet the criteria shall not be considered for absorption, regularization, permanency in the department.' Hence, it is the contention of the respondents that following the above Policy decision, the applicant cannot be considered for absorption or regularization.

5. Heard the learned counsel for the applicant and the learned counsel for the respondents. Perused the pleadings on record and the judgements cited by the learned counsels appearing on either side.

6. The short issue that falls for consideration in the present O.A. is whether the applicant is entitled for regularization? Learned counsel for the applicant argued that the applicant has been continuously working as Sweeper since 1990, which is perennial in nature and as such she is entitled for regularization. On the contrary, learned counsel for the respondents pointed out that the applicant has never been engaged on regular basis and that she has failed to produce appointment letter issued by competent authority. In the nutshell, he tried to impress upon that backdoor entries should not be permitted and open competition should be there for the said post.



7. Learned counsel for the applicant has drawn my attention to para 44 of the judgement of the Hon'ble Apex Court in Uma Devi's case (supra) and submitted that the judgement distinguished irregular appointment and illegal appointment and directed the respondents to consider those who are engaged for more than 10 years prior to the judgement of the Hon'ble Apex Court and grant regularize their services as a onetime measure. He has further argued that instead of following the said judgement of the Hon'ble Supreme Court, the respondents are finding fault with the applicant that she has not produced appointment letter whereas onus lies on them to verify her service particulars and re-consider her case.

8. This Tribunal is in agreement with the learned counsel for the applicant. She should be given Temporary Status in terms of the DOPT's Casual Labourers (Grant of Temporary Status and Regularization) Scheme 1993, which was amended in 1995, allowing to extend the benefit of the said scheme to all full time casual labourers recruited between 29.11.1989 & 01.09.1993. The applicant was admittedly working during the said period.

9. It is needless to say that the applicant has been performing almost the same duties, which her father used to perform as a regular employee with full pay. However, she is being paid a meager amount as per the terms of the employment offered to her. She was not in a position to bargain with the authorities concerned. She accepted whatever is offered to her and performed her duties. In my view, it is a clear case of exploitation, which is not permissible under the law. A

person, who has been performing duties which are perennial in nature, should be considered for regularization at the earliest possible. Thus, the O.A. succeeds on merit in toto. The respondents are hereby directed to consider the case of the applicant for regularization, preferably within four weeks.



10. With the above observations, the O.A. is allowed. There shall be no order as to costs.

(ASHISH KALIA)
JUDICIAL MEMBER

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