

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

Original Application No.21/631/2019

Hyderabad, this the 19th day of December, 2019



Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

T. Chandra Mohan, S/o. T. Narasaiah,
Hindu, aged about 48 years, Ex. Casual Labour (Group D),
H. No. 8-16-78, Sri Krishna Nagar Colony,
Chintalakunta, LB. Nagar, Hyderabad – 500 074.

... Applicant

(By Advocate Mr. P. Venkata Rama Sarma)

Vs.

1. The Union of India, Rep. by its Secretary,
CPV & OIA Division,
Ministry of External Affairs,
Room No. 901, Akbar Bhavan,
Chanakya Puri, New Delhi – 110 021
2. The Joint Secretary (PSP) & Chief Passport Officer,
Ministry of External Affairs,
CPV Division, Patiala House Annexe,
Tilak Marg, New Delhi – 01.
3. The Regional Passport Officer,
Regional Passport Office, Secunderabad.
4. The Deputy Passport Officer (PSP-Admin & Cadre),
Ministry of External Affairs,
Patiala House Annexe,
Tilak Marg, New Delhi.

... Respondents

(By Advocates: Mrs. K. Rajitha, Sr. CGSC &
Mr. B. Vekanna, Advocate representing
Sri A. Radhakrishna, Sr. PC for CG)

ORDER (ORAL)
{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.)}

2. The OA is filed seeking a direction to the respondents to re-engage the applicant as casual labour.



3. Brief facts of the case are that the applicant was initially appointed as casual worker in the Regional Pass Port Office at Hyderabad on 24.02.1992 along with others. After completion of 1 year continuous service, he was conferred temporary status w.e.f. 01.09.1993 vide Office Order dt. 04.05.1994 of the 3rd respondent. Applicant after being granted temporary status was terminated from service vide order dt. 24.06.1994 by giving one month's salary without conducting any inquiry. Applicant was arrested on 24.06.1994 in connection with Crime No. 124/94, dt.3.6.1994 based on a complaint made by the Public Relation Officer, Passport Office, Hyderabad. The case was registered as CC No. 143/1999 and the competent court acquitted the applicant on merits vide order dt. 19.05.2006. No appeal was filed against the said order of acquittal. After being acquitted, applicant made representations on 31.05.2006 and 16.06.2006 to the 3rd respondent requesting to reinstate him into service based on the acquittal. As there was no response, applicant approached this Tribunal in OA 652/2006 wherein it was directed to dispose of the representation of the applicant. Accordingly, respondents examined and rejected the request of the applicant on 13.04.2007 stating that the respondents have abandoned the system of engaging casual employees some 13 years back. Challenging the same, the applicant filed OA 344/2007 before this Tribunal wherein the respondents were directed to consider re-engagement of the applicant if



anybody was engaged as casual labour subsequent to 19.05.2006 or even if there is requirement of casual labour by the respondents. Based on the order of this Tribunal, applicant represented on 14.12.2008, 02.02.2009, 12.03.2009, 01.06.2009, 07.09.2009, 18.01.2010 and 02.05.2011 to the respondents. Applicant has also approached the Hon'ble High Court of Andhra Pradesh in WP No.13017/2011 challenging the orders of this Tribunal and the writ petition was dismissed by order dt. 02.01.2018. Thereafter, a review petition was filed in Review IA No. 01/2018 in WP No. 13017/2011, which also met the same fate on 10.09.2018. The applicant then carried the matter to the Hon'ble Supreme Court in SLP No. 43511/2018, where again, his request was turned down by the dismissal of the SLP on 02.01.2019. Applicant claims that though others who joined along with him and also those who were juniors to him were regularized on 01.08.2007 and several persons were engaged after 19.05.2006, but he was not reinstated. Being aware of these facts, applicant once again represented on 04.02.2019 and 08.04.2019 to the respondents. In response, the 4th respondent on 08.05.2019 rejected the request of the applicant. Aggrieved over the same, the present OA has been filed.

4. Contentions of the applicant are that the impugned order dt. 08.05.2019 is illegal, arbitrary, capricious and bad in law. The respondents should have re-engaged the applicant in Hyderabad Office as per the orders of this Tribunal in OA 344/2007. The respondents have issued orders to various other persons re-engaging/ engaging them as casual labourer, but did not extend similar relief to the applicant, which tantamount to bias on

the part of the respondents. Respondents cannot discriminate persons similarly placed like the applicant. Respondents stating that they have abandoned the policy of engagement of casual labour is only an excuse and contrary to the observations of this Tribunal in OA No. 344/2007.



Respondents cannot reprobate and approbate the version to suit their convenience and to engage their men and cannot deny the legitimate right of the applicant. Some casual labours were granted temporary status even on the very day of their engagement as casual labourer. He contends that rejection of the representation of the applicant reflects non-application of mind and that the respondents are duty bound to re-engage him as per the orders of this Tribunal in OA 344/2007. Respondents have re-engaged some casual labours on their own volition and some, on the orders of different Tribunals across the country. Lastly, it is only the 2nd respondent who is the competent authority to order engagement of casual labour and therefore, terminating the services of the applicant by the 4th respondent is irregular.

5. Respondents in their reply statement opposed the contentions of the applicant by stating that the applicant was engaged as casual labour on 24.02.1992 and granted temporary status on 04.05.1994. However, his services were terminated on 24.06.1994 along with others on account of the completion of the specific work for which he was engaged. Other casual labourers challenged the termination and subsequently were reinstated in compliance of the order of this Tribunal dt. 22.08.1997 in OA 4/1995 and dated 12.08.1997 in OA No. 5/1995 respectively. Applicant could not be



reinstated since he was indicted as an accused in a major passport scam which took place in 1994 and that the case was pending against him at that time for considering his reinstatement. Applicant was acquitted of the criminal charges on 19.05.2006. After acquittal, applicant represented on 31.05.2006 and 16.06.2006 to reengage him on par with the other casual employees who were originally conferred temporary status and later absorbed based on the orders of this Tribunal. Applicant approached this Tribunal by filing OA 652/2006 wherein a direction was given to dispose of the representation of the applicant and complying with the order of this Tribunal, applicant's representation was examined and rejected. It is also submitted that the practice of engagement of casual labour has been stopped and the same was intimated to the applicant vide letter dt. 13.04.2007. Aggrieved, applicant approached this Tribunal in OA 344/2007 wherein it was directed to reconsider re-engagement of the applicant as casual labour if anybody was employed as casual labour subsequent to 19.05.2006 and even otherwise, in case of requirement to engage any persons as casual labour in the future. Challenging the decision of this Tribunal, applicant approached the Hon'ble High Court vide WP No. 13017 of 2011 which was dismissed. A review petition vide Review IA No. 1/2018 was also dismissed. SLP No. 43511/2018 was also filed in the Hon'ble Supreme Court and the same was also dismissed. Applicant was once again informed on 08.05.2019 that the system of engagement of casual labourer in passport offices has been dispensed with, in response to his representation dt. 08.04.2019. However, he was assured that as and when there is requirement to engage any person as casual labour he will be considered in pursuance of the order of this Tribunal in OA 344/2007. The contention of the applicant

that he is senior to many other casual labours is incorrect since there is no system of seniority of casual labourers on pan-India basis.



Applicant filed a rejoinder wherein he asserted that persons are being granted temporary status based on the date of engaging them in the respondent organization. Therefore, the contention of the respondents that there is no seniority list of casual labourer is incorrect. Respondents are taking different contentions at different points of time. The direction of the Tribunal to re-engage the applicant as casual labour remains unaltered by the Hon'ble Courts till date. Respondents have prepared an all India seniority list of casual labours for the purpose of considering their cases of regularization in Group D cadre wherein they have clearly mentioned the date of engagement as casual labour. Applicant repeatedly emphasized that engagement of casual labours by other Pass Port Offices of the respondent organization in the country occurred after 19.05.2006. The 2nd respondent is the competent authority for appointment/ engagement/ re-engagement of casual labours throughout the country and not any other authority. Applicant has cited cases of Smt. Kamlesh Singh and others engaged in different offices of the respondent organization either on own volition or as per the orders of the respective Tribunals.

6. Heard both counsel and perused the pleadings.

7(I) It is an undisputed fact that the applicant was engaged as casual labour by the respondents on 24.02.1992 and was conferred with temporary status on 04.05.1994. Soon thereafter, his services were terminated.

However, when some of the casual labours approached the Tribunal in OA Nos. 4/1995 & 5/1995, they were directed to be reinstated. The applicant could not be reinstated by the respondents in view of the fact that he was involved in a criminal case bearing C.C. No. 143/1999 at the time when other casual labours were considered for reinstatement. Applicant was acquitted by the criminal court on 19.05.2006. Applicant represented to the respondents to re-engage him since he has been acquitted by the competent court and as per the order of this Tribunal in OA No. 344/2007, which reads thus:



“11. xxxx

Here in the instant case the applicant admittedly served as casual labour in the respondents office from the year 1992 and he was conferred with temporary status also in the year 04.05.1994. Therefore, though this Tribunal has got no power to direct the respondents to reinstate the applicant as casual labour as sought for in the relief portion, this Tribunal can direct the respondents to consider the case of the applicant in the event of respondents engaging any casual labour in future as the applicant has already served in the respondent's office for nearly two years. Thus this point is answered accordingly.

12. *In the result, the OA is disposed of with a direction to the respondents to consider re-engagement of the applicant as casual labour if anybody are employed as casual labour subsequent to 19.05.2006 and even otherwise in case of requirement to engage any persons as casual labour in the near future, the respondents shall consider the case of the applicant for re-engagement.”*

The essence of the direction of the Tribunal is that the respondents may consider re-engagement of the applicant in the Hyderabad Office, if anybody else was considered after 19.05.2006 or if there is a need for casual labours in the future, the applicant can be considered for engagement.

II. Applicant contends that respondents after 19.05.2006 have engaged many casual labours around the country either on the own volition or because of the orders of the various Administrative Tribunals in the country. As other casual labours have been engaged in other offices of the respondents, the applicant claims that he should also be considered, otherwise it tantamount to discrimination. The contention of the applicant that he should be considered does not appear to be valid since the order of the Tribunal very clearly states that he to be reinstated in Hyderabad office if anybody else was considered after 19.05.2006 or if there is a need to engage casual labours after the said date.



III. Respondents in the reply statement have been emphatic that they have not engaged any casual labour after 19.05.2006. They have also stated in the reply statement that if at all a need arises to engage casual labours, applicant will be given preference. Therefore, respondents have abided by the judgment rendered by the Tribunal in OA 344/2007. Engagement of casual labours by other offices in the country by the respondents either on their own volition or on orders of the Tribunal are of no consequence to the present case because the order of this Tribunal was specific in directing the respondents to consider the case of the applicant for re-engagement in the Hyderabad office. Applicant also did not produce any document to claim that any casual labour has been engaged by the Hyderabad Passport Office after 19.05.2006. In the absence of such material, the claim of the applicant in the present OA to re-engage him does not appear to be fair or proper.

Therefore, the Tribunal cannot intervene on behalf of the applicant at this juncture of time.



IV. The applicant has also contended that it is the 2nd respondent who is competent to engage casual labours and therefore, even disengagement has to be by the 2nd respondent. Respondents confirm that the orders of the competent authority have been obtained in terminating the applicant's services. Even for a moment, accepting the contention of the applicant that the 2nd respondent being competent to act by the orders passed by this Tribunal, which directed the respondents to engage the applicant in the context of the Hyderabad office, it needs to be emphasised that such compliance is a procedural formality, which, even if not complied with by the 2nd respondent, but complied by the 4th respondent, would not adversely affect the final outcome as was observed by the Hon'ble Supreme Court in *Haryana Financial Corpn. v. Kailash Chandra Ahuja*, (2008) 9 SCC 31.

V. However, learned counsel for the applicant submits that the applicant may be given liberty to file fresh OA if he gets any material of engaging casual labours after 19.05.2006 by the Regional Passport Office.

VI. In view of the submissions of the learned counsel for the applicant, the OA is disposed of giving liberty to the applicant to approach the respondents first if at all he can lay his hand on any documents of engagement of casual labours by the Hyderabad Office after 19.05.2006, within a period of six months from this day and upon such representation by the applicant, the respondents may examine the same and take action as

per the extant rules and directions of this Tribunal in OA 344/2007, within a period of two months from the date of receipt of representation from the applicant. Needless to say that, if the applicant is still aggrieved by the response of the respondents to the representation made, he would be at liberty to approach this Tribunal with proper and adequate material as is required to stake his claim.



VII. With the above directions, OA is disposed with no order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

/evr/