

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/021/63/2015

HYDERABAD, this the 1st day of March, 2021



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

Md. Fasiuddin, S/o. Md. Faizuddin,
aged about 56 years,
Occ: Seasonal Kalasi,
R/o. 3-141, Chintoor (Via),
Motugudem, Bhadrachalam (T),
Khammam District – 507 113.

...Applicant

(By Advocate : Sri R. Yogender Singh)

Vs.

1. Union of India rep. by
The Executive Engineer,
Govt. of India, Central Water Commission,
Lower Godavari Division, D.No.11-4-648,
3rd floor, A.C. Guards,
Hyderabad – 500 004.
2. The Sub divisional Engineer,
LGSD 1 /CWC/ Bhadrachalam.

....Respondents

(By Advocate : Smt K. Rajitha, Sr. CGSC)

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



2. The OA is filed with a prayer to set aside the cancellation of the appointment of the applicant as regular Khalasi through an uncommunicated order dt. 04.02.2011 and to direct the respondents to reinstate him into service with all consequential and service benefits.

3. Brief facts of the case are that the applicant has worked as seasonal Khalasi from 1981 upto 2010. His services were regularized on 11.3.2010 and later, again on 28.12.2010. Unfortunately, the wife of the applicant has developed cancer and hence, he could not attend duty. Therefore, he was not aware of the cancellation of his appointment on a regular basis.

4. The contentions of the applicant are that the Principles of Natural Justice have not been followed. Show cause notice has not been issued before terminating his services. The absence from duty was due to the illness of his wife. Hence, removal is illegal. Applicant cited Hon'ble Supreme Court judgment in support of his contentions.

5. Respondents in the reply statement stated that the applicant for having worked as Seasonal Khalasi from 1981 to 2009, his services were regularized on 11.3.2010 and posted to Perur. Applicant without joining the post has sought for a posting at Konta, which was rejected by advising the applicant to first join and seek change. As there was no further communication, the applicant is deemed to be no longer in service.

However, on the request of the applicant, again a suitable post was offered to him at Bhadrachalam on 28.12.2010, which was also not accepted. The applicant was informed of the cancellation of his appointment though SDE, LGSD-I Bhadrachalam on 4.2.2011. Applicant claims that he has submitted relevant documents, but he did not state as to against which order the documents were submitted i.e. 11.3.2010 or 28.12.210. The question of giving any opportunity would not arise as applicant has not joined the regular post. Applicant represented on 21.9.2012 that his wife was suffering from cancer and later it was informed she has recovered vide letter dated 6.9.2011 as per MNJ hospital report.

6. Heard both the counsel and perused the pleadings on record.
7. I. The dispute is about cancellation of the order of regularisation of the services of the applicant without his knowledge by the respondents. In this regard, from the facts, it is evident that the applicant worked as Seasonal Khalasi during every monsoon from June to October and thereafter, his services were discontinued every year. For having worked from 1981 till 2009 as Seasonal Khalasi, his services were regularised on 11.3.2010 and posted to Perur. Applicant sought a change to Konta which was rejected. Applicant need to have joined and sought the change, which he did not do. Thereafter, the respondents were liberal enough to again offer the post at Bhadrachalam, which was not accepted by the applicant. The wife of the applicant was suffering from cancer and he could not join. The contention of the applicant that show cause notice was not issued before removing him from service is not maintainable, since the applicant

did not join the post though offered by the respondents on multiple occasions. The letter cancelling the offer of regularisation was delivered to him on 4.2.2011 by a responsible official of the respondents organisation.

II. Without regularisation, the applicant continues to be a Seasonal Khalasi, and his services terminate automatically with the monsoon. Applicant did not report after the end of the season on 31.10.2009 and therefore, he is no longer on the rolls of the respondents. Therefore, the removal of applicant from service does not arise and hence, the judgment cited by the applicant is also not applicable.

III. However, it is an undeniable fact that the wife of the applicant has suffered with cancer. Even as per the reply statement, the applicant has submitted a letter dated 21.9.2012 enclosing the letters from the Chief Minister about the disease of his wife and subsequent recovery. The applicant is from the lowest cadre of the respondents organisation and since his wife was suffering from cancer he could not join, which requires humane consideration. The respondents on their own were liberal to help the applicant on various occasions by offering the order of regularisation on multiple occasions and such consideration for one more time could be considered given the contours of the case.

IV. Thus, considering the genuine difficulty faced by the applicant and the fact that the applicant worked for 29 years as Seasonal Khalasi and found fit for regularisations on many occasions, respondents are directed to consider granting the applicant one final opportunity of regularisation of his services by issuing an appropriate order within a period of 3 months from the date of receipt of this order, as per extant rules and in accordance to

law. The date from which the services of the applicant are to be regularised is left open to the respondents for taking a decision as deemed fit. The applicant need to be responsible and respond positively to the directions of the respondents in service matters.



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

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

/evr/