

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD**

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(THIS THE 11th DAY OF December, 2009)

Hon'ble Mr. S.N. Shukla, Member (A)

Original Application No. 1163 of 2006

(U/S 19, Administrative Tribunal Act, 1985)

Smt. Suman Mishra D/O Late Sri Girish Dutt Mishra W/O Sri Baikuntha Nath Mishra R/O Ghadiagarh, P.O. Geetavatika, District Gorakhpur.

..... *Applicant*

1. Union of India through Secretary (Custom & Excise) Ministry of Custom & Excise, Government of India, New Delhi.
2. The Controller, Central Custom and Excise, 38 M.G. Marg, Allahabad.
3. The Deputy Controller, Central Custom & Excise, 38, M. G. Marg, Allahabad.
4. Assistant Collector, Central Custom Excise, Gorakhpur Region, Gorakhpur.

..... *Respondents*

Present for Applicant : Shri J. N. Tripathi
Shri H. P. Mishra

Present for Respondents : Shri R. K. Shukla

ORDER

(DELIVERED BY HON'BLE MR. S.N. SHUKLA- AM)

The claim of the applicant is that she has worked for more than 206 days (total 209 days as per the policy of 1993) and therefore, covered by the Government of India O.M. No. 51016/2/90-Estt.(C) dated 10th September, 1993, (Annexure - RA-2 to the O.A) on page 23 (part of Annexure-3). In para 4 (page 3) of the Counter Affidavit it has been averred by the Respondents that prior to 1993 the applicant had worked for only 61 days and therefore, fulfills the condition for working of 206 days for

regularization. The applicant, however, in Rejoinder Affidavit dated 25.09.2007 in Para 8 the applicant urged that she has completed 209 days upto September 1993 and in respect of her contention she has filed copies of cheques of the payment received by her as per Annexure - 4 page 24, 25, 26, 27 of the Rejoinder Affidavit.

3. Respondents counsel admits that the specific payments submitted by cheques have not been controverted or denied by him and agrees that for these facts emerging the fresh representation by the applicant would deserves consideration.

4. It is to be noted that in 1999 the applicant was once again engaged as a contract labour and continued to work till date. On a clarification obtained by the learned counsel for the Respondents as to the difference between 'Casual Labour' and a 'Contract Labour' the only difference according to him is that a 'Casual Labour' can be employed even there is no work, whereas a 'Contract Labour' has to be employed only while there is work. In substance there is no difference between 'Casual Labour' and 'Contract Labour'.

5. Considering the totality of the facts this Tribunal is firmly of the view that the applicant deserves consideration on her case apparently when similarly situated persons as her are claimed to have been regularized, and her grievance may be redressed if she is allowed to file a Comprehensive representation taking all issue before the Competent Authority who may pass reasoned and speaking order within a specified period of time as per rules. Applicant is accordingly directed to file comprehensive

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representation within four weeks of receipt of this order and Competent Authority i.e. Respondent No. 4 who on his own or through any other authority competent for this purpose may pass a reasoned and speaking order as per law within three months of receipt of the application/representation from the applicant, if such a representation is received within stipulated time.

6. The O.A. stands disposed of finally. No Costs.



Member-A

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