

13 (5)

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
AHMEDABAD BENCH

NO  
Termination

O.A. No. 561 OF 1989  
~~Ex. No.~~

DATE OF DECISION 24.3.1993.

Smt. Hanshaben K. Gadav, Petitioner

Mr. P.H. Pathak, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondents

Mr. Akil Kureshi, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. R.C. Bhatt, Judicial Member.

The Hon'ble Mr. V. Radhakrishnan, Admn. Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ? ✓
2. To be referred to the Reporter or not ? ✗
3. Whether their Lordships wish to see the fair copy of the Judgement ? ✗
4. Whether it needs to be circulated to other Benches of the Tribunal ? ✗

6

Smt. Hanshaben K. Jadav,  
Bhaliapole,  
Raykhad,  
Ahmedabad.

.... Applicant.

(Advocate: Mr. P.H. Pathak)

Versus.

1. Union of India  
Notice to be served through  
The Chief Postmaster General  
Gujarat Circle  
Navrangpura, Ahmedabad.

2. Head Record Officer(R)  
R.M.S. 'AM' Division  
Ahmedabad.

..... Respondents.

(Advocate: Mr. Akil Kureshi)

ORAL ORDER

O.A.No. 561/1989

Date: 24.3.1993.

Per: Hon'ble Mr. R.C.Bhatt, Judicial Member.

Heard Mr. P.H. Pathak, learned advocate for the applicant and Mr. Akil Kureshi, learned advocate for the respondents.

2. This application under section 19 of the Administrative Tribunals Act, 1985, is filed by the applicant, who was working as a water server/sweeper under the respondent No.2, Head Record Officer, R.M.S., Ahmedabad, as part-time employee since 1985, seeking the relief that the impugned order terminating her services with effect from 18th July, 1988 by the respondent No.2 be held as illegal and inoperative and the same be quashed and set aside and the respondents be directed to reinstate the applicant in service with continuity of service

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and backwages and the respondents be directed to comply with the direction of the Hon'ble Supreme Court regarding regularisation of her services.

3. It is not in dispute before us that the applicant was verbally appointed from the year 1985 and it is also not disputed before us that she was orally terminated by the respondent No.2 with effect from 18th July, 1988. The applicant made representations to the respondents against this illegal termination. The case of the applicant is that she started services with effect from 20th May, 1985 and was performing five hours duties. It is alleged by her that at first she was terminated by an order dated 5th February, 1987, but after her representation Annexure A she was again taken in employment and the applicant has produced at Annexure A-1, the appointment order dated 29th April, 1987. It is the case of the applicant that since 29th April, 1987 upto the date of oral termination on 18th July, 1988 she is in <sup>on</sup> continuous service without any break and she has put more than 240 days within a period of 12 months prior to her oral termination. It is the case of the applicant that she is a workman and the respondents an industry within the provisions of Industrial Disputes Act and the action of the respondents in verbally terminating her services without following the provisions of Section 25F of I.D. Act is illegal and bad in law and hence same should be quashed and set aside.

6

4. The respondents have filed reply contending that the applicant was sponsored by the employment exchange and therefore, she was not entitled to be regularised. It is contended that her services were terminated from 18th April, 1988 in view of the letter dated 25th May, 1985. The respondents have contended that in view of the letter dated 25th May, 1985 applicant is not eligible to be <sup>placed</sup> ~~placed~~ on the provisionl list prepared as per the said circular. The respondents <sup>have</sup> ~~are~~ denied the applicant is a 'workman' and the respondents department 'an industry'.

5. The applicant has filed rejoinder controverting the contentions taken by the respondents in the reply.

6. The first question arises as to whether the applicant is a 'workman' and the respondents 'an industry'. The applicant was working as Water server/Sweeper in the Postal Department and therefore, in our opinion, the applicant is a workman and the respondents an industry as defined under the I.D. Act. Many Tribunals by this time have decided this issue. The next question is whether the applicant has completed the work for more than 240 days within a period of one year prior to her oral termination on 18th July, 1988. The applicant has catagorically alleged in the application that <sup>she</sup> has continuously worked from 29th April, 1987 till 18th July, 1988 for more than 240 days. This statement of fact is not denied by the respondents and

9

therefore, we have no reason not to rely on the statement of the applicant that she had put the work for more than 240 days within a period of one year prior to her oral termination. In this view of the matter, the respondents ought to have followed the procedure under section 25F of the I.D. Act before terminating the services of the applicant, but respondents have not followed this mandatory provision of Section 25F of I.D. Act and therefore, the oral termination is bad in law and shall have to be quashed and set aside.

7. The respondents have put much reliance on the circular letter dated 25th May, 1988. According to the respondents, the services of the applicant were terminated as per the said letter dated 25th May, 1988. The learned advocate for the applicant on this point drew our attention to the decision in M.M.Unnikrishnan V/s. Superintendent of Post Offices and Ors. (1990) 13 A.T.C. page 250, it is held in this decision that condition of being recruited before May 7, 1985 as contained in GIOM dated May 7, 1985 for regularisation of such person held unsustainable and hence termination in pursuance of the said OM was quashed. It was further held that when a casual driver was retained for a long period of about four years without any warning that such recruitment was irregular, then the department was estopped from terminating services merely for not having been sponsored by the employment

(10)

exchange. In the instant case, if the respondents wanted to terminate the services of the applicant, <sup>they</sup> ~~that~~ could have done so by following the provision of Section 25F of the I.D. Act, but to terminate the services of the applicant verbally is absolutely illegal order and that is the reason why we quash the oral termination.

8. The learned advocate for the applicant also submitted that the applicant should be regularised by the respondents. It is important to note that the regularisation of the services of the employee depends <sup>on</sup> many factors and therefore, the applicant may make suitable representation to the respondents to consider her case for regularisation according to rules. Hence we pass the following order:

ORDER

Application is allowed. The order of oral termination of the applicant dated 18th July, 1988 is quashed and set aside. The respondents are directed to reinstate the applicant in service within two months from the receipt of the order of this Tribunal with full backwages and continuity of service. The applicant to file an affidavit about any gainful earning during this period if any. The applicant at liberty to make a suitable representation for

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regularisation of her services as per the rules.

The respondents to pay backwages within three months from the receipt of the order of this Tribunal.

The respondents on receipt of representation from the applicant to dispose of the same within three months. Application is disposed of with no order as to costs.



(V. Radhakrishnan)  
Member (A)



(R. C. Bhatt)  
Member (J)

vtc.

CENTRAL ADMINISTRATIVE TRIBUNAL, DELHI

Application No.

DA/561/89.

of 19 .

Transfer application No.

Old Write Pet. No. ....

CERTIFICATE

Certified that no further action is required to be taken and the case is fit for consignment to the Record Room (Decided).

Dated: 02/04/93.

Countersigned.

Section Officer/Court Officer.

*12. S. Chhabra*

Signature of the Dealing  
Assistant.

# INDEX SHEET

NAMES OF THE PARTIES Groff P. K. Judon

U. of T. & Co.

[illegible]

CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD.

Submitted :

C.A.T./JUDICIAL  
SECTION.

Original Petition No.: 561 of 89.

Miscellaneous Petition No. — of —.

Shri H K Jadan Petitioner(s).  
Versus.

Union of India Respondent(s).

This application has been submitted to the Tribunal by Shri P H Parake under Section 19 of the Administrative Tribunal Act, 1985. It has been scrutinised with reference to the points mentioned in the check list in the light of the provisions contained in the Administrative Tribunals Act, 1985 and Central Administrative Tribunals (Procedure) Rules, 1985.

The application has been found in order and may be given to concerned for fixation of date.

The application <sup>has</sup> is not been found in order for the ~~same~~ reasons indicated in the check list. The applicant may be advised to rectify the same within 21 days/Draft letter is placed below for signature.

S  
2/12

Ans

is

OK

We may fix the date for admission as copy served to other side.

29/12/88

29/12/88

1/1/89  
28/12/88

CENTRAL ADMINISTRATIVE TRIBUNALAHMEDABAD BENCHAPPLICANT (S) H K JodavRESPONDENT(S) Union of IndiaPARTICULARS TO BE EXAMINEDENDORSEMENT AS TO  
RESULT OF  
EXAMINATION.

1. Is the application competent ?
2. (A) Is the application in the prescribed form ?  
(B) Is the application in paper book form ?  
(C) Have prescribed number complete sets of the application been filed ?
3. Is the application in time ?  
If not, by how many days is it beyond time ?  
Has sufficient cause for not making the application in time stated ?
4. Has the document of authorisation/ Vakalat Nama been filed.?
5. Is the application accompanied by B.D./I.P.O. for Rs.50/-? Number of B.D./I.P.O. to be recorded.
6. Has the copy/copies of the order(s) against which the application is made, been filed ?
7. (a) Have the copies of the documents relied upon by the applicant and mentioned in the application been filed ?  
(b) Have the documents referred to in (a) above duly attested and numbered accordingly ?  
(c) Are the documents referred to in (a) above neatly typed in double space ?
8. Has the index of documents has been filed and has the paging been done properly ?

DD 19/12/98  
619

100 copies of order

PARTICULARS TO BE EXAMINED

ENDORSEMENT AS TO BE  
RESULT OF EXAMINATION.

9. Have the chronological details of representations made and the outcome of such representation been indicated in the application ?
10. Is the matter raised in the application pending before any court of law or any other Bench of the Tribunal ?
11. Are the application/duplicate copy/spare copies signed ?
12. Are extra copies of the application with annexures filed.
  - (a) Identical with the original.
  - (b) Defective.
  - (c) Wanting in Annexures  
No. \_\_\_\_\_ Page Nos. . \_\_\_\_\_ ?
  - (d) Distinctly Typed ?
13. Have full size envelopes bearing full address of the Respondents been filed ?
14. Are the given addressed, the registered addressed ?
15. Do the names of the parties stated in the copies, tally with those indicated in the application ?
16. Are the transactions certified to be true or supported by an affidavit affirming that they are true ?
17. Are the facts for the cases mentioned under item No.6 of the application.
  - (a) Concise ?
  - (b) Under Distinct heads?
  - (c) Numbered consecutively?
  - (d) Typed in double space on one side of the paper ?
18. Have the particulars for interim order prayed for, stated with reasons ?

Y

no

Y

Y

no

Y

Y

Y

Y

Y

checked  
20/12/82

SIC-588/88  
21/12/88

(1)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

ORIGINAL APPLICATION No.561 /1989

Between

Smt. Hanshaben K. Jadav

.. Applicant

V/s.

Union of India & Ors.

.. Respondents

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6 194298  
619

I N D E X

Sr. No.	Ann..	Particulars	Pages
1.	-	Memo of the petition	1 to 9
2.	A	Copy of the representations made by the applicant	10
3.	A1	A copy of the order dated 29.4.87	11
4.	A2 (Copy)	Copies of the representations made by the applicant after the <del>order</del> impugned termination	12 to 15
5.	A3	Copy of the pass dated 7.6.85	16

PRP  
242

Date: -12-1989

Ahmedabad

(P.H. Pathak)

Advocate

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

ORIGINAL APPLICATION No. 56) /1989

I Applicant

Smt Hanshaben K. Jadav

Bhaliapole

Raykhad

Ahmedabad - 1

V/s.

II Respondents

1. Union of India

Notice to be served through

The Chief Postmaster General

Gujarat Circle

Navrangpura

Ahmedabad

2. Head Record Officer (R)

R.M.S. "AM" Division

Ahmedabad - 2

III Order under Challenge: Order of verbal termination of services of the applicant with effect from 13 July 1988 and not giving the benefits of department circulars to the applicant.

IV Jurisdiction & Limitation:- The applicant declare that the subject matter of the application is within the jurisdiction of the Hon'ble Tribunal and is within the limitation under section 21 of the Administrative Tribunal Act 1936.

VI Fact of the Case:

1. The applicant is the citizen of India and was working as a Water Woman/Sweeper under the respondent no.2 as part-time employee. That since 1985 except an artificial break during which the respondents want to accommodate another lady named Baluben, there is no break in the services of the applicant. That in the light of the section 25 B of the Industrial Dispute Act the applicant has put continuous services.. That no appointment order or service card etc. are given to the applicant on the ground that the applicant is a part-time employee. The appointment of the applicant was verbal and the termination of services of the applicant is also verbal by the respondent no.2 with effect from 18/7/88.

A | Aggrieved by the said order of the termination the applicant  
B | has made several representations to the respondent authorities but no fruitful result was available and therefore the applicant has no other alternate except to approach this Hon'ble Tribunal by way of this application. That the ~~information~~ <sup>action</sup> on the part of the respondent to terminate the services of the applicant, verbally, is arbitrary, illegal and inoperative in law and liable to be quashed and set-a-side.

2. It is submitted that the applicant has joined the services as a part-time Water Women/Sweeper with effect from 20 May 1985. That at the initial stage the applicant was paid Rs.250/- as the monthly salary. That the applicant was performing 5 hours duties. That there was no complaint against the work of the applicant and the applicant was working very efficiently and to the satisfaction of the respondent authorities. That all of a sudden without assigning any reason the applicant's services were terminated with effect

from 5.2.87. That the applicant was not aware why there services were put to an end. That in the month of January 1987 the applicant has made a representation to the respondent authority to include her name in the list of the casual labourers for absorption. A copy of the said representation is annexed and marked as Annexure A to this application. That the applicant was not given any reply of the same but with effect from 5.2.87 i.e. after few days of the representation the applicant was terminated. That after termination of the services of the applicant, she made several representations to the respondent authorities and requested that she should be continued as Water Woman and her termination is arbitrary. That the result of the several representation the respondent no.2 has given an order of reinstatement, employment to the applicant. A copy of the order dated 29.4.87 is annexed and marked as Annexure A1 to this application. That since then the applicant was continued in service without any break till the date of her termination with effect from 18th July 1988. The applicant has put continuous services of more than 240 days and is entitled to get the protection of the mandatory provisions of Industrial Dispute Act. That while terminating the services of the applicant the respondents have not given any notices or reason or terminal benefits and therefore the action on the part of the respondent no.2, verbally terminating the services of the applicant is prima facie bad in law and required to be quashed and set-a-side.

3. It is further submitted that the respondent department comes within the purview of Industry under section 2(j) of Industrial Dispute Act. The applicant is a workman. The case of the applicant is covered by the judgement of this Hon'ble

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Tribunal as well as the Hon'ble Supreme Court of India. That in the identical case of Cooly/Labour, who was working under the respondent no.1 and ~~is~~ his services were terminated verbally this Hon'ble Tribunal was pleased to quash and set-a-side the order and directed reinstatement with full backwages and continuity of services. That the respondents are under obligation to follow the mandatory provisions of Industrial Dispute Act 1947. Any termination without following section 25 F and relevant provisions and rules therein makes the termination nonest. That here also the respondent no.2 did not care to give any written order or retrenchment benefits notice pay etc. to the applicant and with immediate effect, verbally, terminated the services of the applicant. And therefore it is liable to be quashed and set-a-side. It is pertinent to note here that after the termination of services of the applicant the applicant has made several representations against this to the authorities concern and has requested that her case should be considered in light of the various circulars issued by the department that the part-timers also should be treated par with casual labourers. The copies of the representations are annexed and marked as Annexure A 2 collectively to this application. Directions given by the Hon'ble Supreme Court in daily rotated employee of P & T department, was to prepare a scheme for regularisation of the employees. That the case of the applicant is required to be considered for regular absorption by the respondent. In spite of complying with the Supreme Court direction the respondent choose to throw away the applicant from her services, so that she may not be able to claim the benefits. Thus the termination of services of the applicant is with malafida intention to

deprive the applicant of status and benefits available to the regular employee of the department and therefore also being arbitrary, and is violative of Art. 14 of the Constitution of ~~xxx~~ India and is required to be quashed and set-a-side.

4. It is further submitted that the applicant has put her services since May 1985 and during the period of Riots in Ahmedabad she was attending her duties taking risk with the life. The applicant has given an identity card mentioning that the duties of the applicant is essential for emergency during the curfew period. A copy of the said pass dated 7.6.85 is annexed and marked as Annexure A3 to this application. Thus looking to overall circumstances of the case the applicant has put satisfactorily services and she has time and again requested the respondent authorities to consider her case for regularisation. That in the last representation with folded hand she requested the respondent that due to termination of her services she is facing great hardships and she may kindly be given employment. That the requests of the poor lady has reached to the deaf ears of the respondent and no fruitful result was available. The applicant has there~~fore~~ after approached the Union and Union Circle Secretary Shri Kureshi has also personally visited the respondent no.2 and requested him to provide work to the applicant as the work is available and the applicant has put a considerable long services. That no fruitful result was arrived at and ultimately the applicant has to approach this Hon'ble Tribunal by way of this application challenging the termination of her services with effect from 18/7/89.

5. It is further submitted if the respondents have any real cause or reason to terminate the services of the applicant, he should follow the mandatory provisions of I.D. Act 1947, Rule 77 read with Section 25 G cast an obligation on the respondents to publish seniority list of the employees from which cader the retrenchment is to be effected. That no seniority list was published. Juniors to the applicant who has put less days of services are continued in services. The applicant has put more than 360 days of service and her case is required to be consider for regularisation with casual labourers. That the respondent have adopted unfair labour practice and has terminated the services with effect from 18.7.88, ~~terminated the services~~ ~~with~~ without following "Last come First Go" principle. The duties are cast on the employer to publish seniority list, to enable employees to know his status and position. The courts have held that intention of Section 25 G & Rule 77 is to avoid "Hire and Fire" policy of employer. The respondents have neither given any written order, reason, or compensation etc. and therefore termination is violative of S. 25 F read with S 25 B, G, & Rule 77 of I.D. Rules. The Hon'ble Supreme Court has taken view that without following provisions of S.25 F of I.D. Act 1947 is void-ab-inito and workman should be reinstated with backwages.

6. It is submitted that respondent has also not obtained any prior permission as per section 25(N) of the I.D. Act. That about more than two hundred employees are working under the respondent. That the respondent is under obligation to obtain the <sup>prior</sup> ~~appropriate~~ permission of the appropriate authority to effect the retrenchment of the employees. That the procedure prescribed under Section 25 N r/w rules is also not followed by the respondent before effecting the retrenchment of the applicant and therefore the action on the

part of the respondent, verbally, terminating the services of the applicant with effect from 18.7.88 is ex facie illegal, ~~inoperative and~~ invalid and inoperative in law and is required to be quashed and set-a-side. The balance of convenience is in favour of the applicant as the applicant is a poor lady and she has to maintain her family. That due to the termination of her services it is too difficult for her to maintain herself and family. The family of the applicant is facing starvation situation and on the other hand the might State authority has flouted the mandatory provisions of I.D. Act. The applicant is having a prima facie strong case which is directly covered by the judgement of the Hon'ble Tribunal and therefore the interim relief is required to be granted in favour of the applicant. Not only this but after termination of the applicant the respondent have employed fresh faces and therefore also the applicant is required to be given employment as provided under section 25 H of the I.D. Act 1947.

VIII Relief Sought for:-

In the abovementioned facts and circumstances of the case the applicant pray that :-

- (A) The Hon'ble Tribunal be pleased to declare the impugned order terminating the services of the applicant with effect from 18.7.88 by the respondent no.2\* as illegal invalid and inoperative in law and is pleased to quash and set-a-side it and be pleased to direct the respondent to reinstate the applicant with continuity of services with full backwages.
- (B) Be pleased to direct the respondent to comply with the directions of the Hon'ble Supreme Court regarding regularisation of services of the casual labourers and considering the case of the applicant.

8

- 8 -

- (C) Any other relief to which this Hon'ble Tribunal deems fit and proper in the interest of justice together with costs.

VIII Interim Relief:-

- (A) pending admission and final disposal of this application be pleased to ~~xxxx~~ direct the respondent to give employment to the petitioner and pay the wages regularly.
- (B) Be pleased to direct the respondent to produce the seniority list of the cadre of the applicant before this Hon'ble Tribunal

- (C) Any other relief to which this Hon'ble Tribunal deems fit and proper in the interest of justice together with costs.

IX The applicant has not filed any other application in any other court with regard to the subject matter of this application.

X Details of Postal Order:-

Postal Order No. 22 194 298 Date: 21-12-89  
Issued by Gujarat High Court Post Office, Ahmedabad  
Amount of Rs.50/-

XI Details of index:-

An index in duplicate containing the details of the documents to be relied upon are enclosed.

XII Details of remedies exhausted

Applicants have no other alternative remedy except to approach this Hon'ble Tribunal.

XIII List of enclosures:

As per index

Date: 21 -12-1989

Ahmedabad

*[Signature]*  
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96

VERIFICATION

1, Smt. Hanshaben K. Jadav, Hindu Adult,  
residence of Ahmedabad, do hereby state that  
what is stated above in the application is  
true to best of my knowledge and information,  
and I believe the same as true. I have not  
suppressed any material facts from this Hon'ble  
Tribunal. The advocate has explained the  
contentions in Gujarati language.

Ahmedabad

Date: 21-12-89

જાણીતી મદદ  
.....

Filed by Mr. P. H. Palhota  
Learned Advocate for Petitioners  
with second set & .....  
copies copy served/not served to  
other side

Dt. 21/12/89 Dy. Registrar C.A.T (J)  
A'bad Bench

Reply/Rejoinder/written submission  
filed by Mr. ....  
learned advocate for petitioner /  
Respondent with second set.  
Copy served/not served & other side

Dt. / Dy. Registrar C.A.T (J)  
A'bad Bench

10  
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Annexure A

Hansaben K. Jadav  
Sweeper come water maid lady  
H.R.O., Ahmedabad 2

Dt. 21-1-1987

To

Smt. Shoha Koshey  
The SSDM  
AM Dn. And 380 004

Proper channel

Sub: Absorption of casual labour

Sir,

I the undersigned HANSABEN K. JADAV sweeper come Water  
Maid Lady, HRO And 2 beg to request your honour  
My name is not enrolled in the list issued by your office.

I am working in HRO And 2 R from 10.00 to 15.00 Hrs  
as a part time since May 1985 without break except halyday.

Therefore your honour is requested to help me looking to the hard  
days.

Thanking you in anticipation.

Sd/-  
Yours faithfully

Note:-

One advance  
copy by post  
for confirmation.

TRUE COPY.  
*[Signature]*  
(Advocate)

118  
Annexure A/1

DEPARTMENT OF POSTS-INDIA

By hand

In reply  
Please Quote

From Head Record Officer (R)  
R.M.S. "AM" Dn.  
Ahmedabad - 2.

To Smt Hansaben K. Jadav

No. HRO/PT/87-88

Dated at Ahd 2 29.4.87

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SUBJECT

SMT Hansaben K. Jadav is hereby ordered that she should work in H.R.O. Ahmedabad - 2 from 10.00 hrs to 15.00 Hrs on provisional base for two months with effect from 1-5-87 to 30-6-87 as part time sweeper cum water woman paid from contingency.

Sd/-  
Head Record Officer, (R)  
R.M.S. "AM"-Dn.  
Ahmedabad - 2.

TRUE COPY  
*[Signature]*  
(Advocate)

માનીય સીનીયર... સુપ્રિન્ટેન્ડન્ટ સાહેબ એ. એમ. ડીવીઝન અમદાવાદ-૩૮૦૦૦૪.

શ્રીમાન સાહેબ આપને નમ્રતા સાથે લખનાર વોટર બુમન શ્રી હસાબેન કે. જાદવ ઉમર  
બર્ષા છે. રહેવાનું સરનામું રાયબડ ભાટી પોલીસ, અમદાવાદ -૧. હું છેલ્લા ૧૯૮૫ માર્ચ  
મહીનાથી એમ.આર.ઓ. અમદાવાદ -૨ માં સફાઈ તો પાણીપાવામાં નોકરી કરું છું અને મારા  
તન-મન થી આ સરકારી નોકરી છૂટી કરી છે. અને મારી કોઈ પણ જાતની ફરિયાદ વગર મે.  
હડતાલ તથા કરકસુ માં આવીને મે. ૪૪ મારી ફરજ બજાવી છે. હું એક ગરીબ કુટુંબની સ્ત્રી છું  
અને આ મોઢવારી માં પોતાના પરની પરિસ્થિતિ ના કારણે નોકરી ઉપર આવું છું આપણી XXXX  
ઓફિસને પોતાનું પર સમજી ને મે. મારા મનથી સાફ-સફાઈ કરી છે. અને ક હું હું પણ છેલ્લા  
૧૫ દિવસથી આપણી ઓફિસમાં કામ કરતા જે નાના કર્મચારીની ડ્યુટી આપે છે. તે મને કહે છે  
કે, તમને હું ૨૪૦ - દિવસ ૪ ન થાય માટે તમો રજા પાડો અને જાણી જોઈને મને રજા XXXXXXX  
આપવાનું કહે છે. કારણ મને ખબર નથી. હું તો XXXXX સમજું છું કે મને મહી મારા કુટુંબનું  
ભરૂ-પોજાર કંઈ કાયદો થશે. અને મને આપણી સરકારના વારા-વોરસ પ્રમાણે મને પા ટાઈમ થી  
ઈ.ડી.ની જગ્યા મળશે પણ મને તો આ સાહેબ કંઈ જ લાભ ન મળે તેમથી મને બાકાત રાખવાની  
વાત કરે છે. XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX મે તેમનું કાંઈ ખરાબ કર્યું નથી પછી  
એમનો આશ્રય શું છે.? માટે આપ સાહેબ મને -યાય આપવા મહેરબાની કરશો. જ્યારે મે. ખરા  
સંકટ ની અંદર મે મારી જાન જોખમમાં નાખીને મે મારી ફરજ બજાવી છે પછી મને આ અ-યાય  
કેમ થાય છે. તેના માટે આપ સાહેબ ધ્યાન આપશો. હું કોઈ પણ ટાઈમે નોકરી કરવામાં શુકું છું  
એટલે મને આપણા ડીપાર્ટમેન્ટ ના જોઈતા હકક મળે એવી હું આશા રાખું છું. મને ઈ.ડી.ની પણ  
જગ્યામાં પ્રમોશન આપવા તથા અપાવવા એવી આપને મારી નમ્રતા ભરી અરજ છે. અને મારા ગરીબ  
કુટુંબની જવાબદારી મારા ઉપર છે. આપ મારી ઉપર રહેમ કરી મને આપણી ઓફિસમાં નોકરી  
ઉપર રહેવા દેશો એવી આપને મારી દર્દ ભરી વિનંતી છે.

મારી પાસે XXXXX એપ્લોમેન્ટ કાર્ડ પણ છે. પણ ક્યાંય નોકરી આવતી નથી. હું જે થી  
તરફ ચોપડી પણ ભૂલી છું વવારે અસ્વાસ્થ્ય કર્યો નથી. ગરબાઈના લીધે અત્યારે હાલમાં કેજ્યુલ  
મજદુરને પ્રમોશન મળે તેવી જગ્યામાં આપની સરકારના કાયદા મુજબ ૨૪૦ દિવસથી સાંગ હાજરી  
આપેલી હોય તો તેને કાયદો થતો હોય તો મે. XXXX તો છેલ્લા ૧૯૮૫ ના માર્ચ મહીનાથી  
એક પણ દિવસની રજા વગર મે મારી નોકરી કરેલી છે. અને આજ દિન સુધી ૪૪ મારી સાંગ ૨૦-  
થીર મહીના વીતી ગયા છે. માટે આપ સાહેબને મારી નમ્ર વિનંતી સાથે મારી અરજી સ્વીકારી  
લેસલ જ સ્થ એજ આ અરજી મે આપના ધ્યાનમાં આવે તે માટે કરી છે. મને કાયદા-કાર્યવાહીમાં  
સમજ પડતી નથી અને મારે તેની જરૂર પણ નથી. મને તો મારી નોકરી મળે તેનાથી મારા કુટુંબ  
નું આજીવન ભરૂ-પોજાર ચાલુ રહે તેવી હું ઈશ્વર પ્રત્યે પ્રાર્થના કરું છું

જસ, એજ, આપનો વફો જ આભાર

શ્રી. આપની વિ.,  
હસાબેન કે. જાદવ,  
વોટર બુમન, એમ.આર.ઓ.  
અમદાવાદ - ૩૮૦૦૦૪.  
એ.એમ. ડીવીઝન અમદાવાદ.

TRUE COPY

(Advocate)

P.T.O

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ઉસાબેન કે. જાદવ,  
કેજયુલ લેખર,  
અય. આર. બો. (આર),  
અમદાવાદ-૩૮૦ ૦૦૨.

તારીખ:-૬-૨-૧૯૮૭.

પ્રતિ શ્રી,  
મે. સીનીયર સુપ્રિટેન્ડેન્ટ સાહેબ,  
આર. એમ. એસ. એમ. ડી.,  
અમદાવાદ - ૩૮૦ ૦૦૪.

અય. આર. બો. અમદાવાદ ( આર ) મારફત,

વિષય :- રેગ્યુલર કેજયુલ લેખરમાં લેવા બાબત.

મે. સાહેબ ,

વિ.વિ. સાથે લખવાનું કે, હું છેલ્લા મે સે ૧૯૮૫ થી અય. આર. બો. રેકૉર્ડમાં પનાહી વાળી તરીકે નોકરી કરી રહી છું. પરંતુ તારીખ:-૫-૨-૧૯૮૭ ના રોજ અય. આર. બો. રેકૉર્ડમાં ગ્રુપ ડી. ના એન્ટ્રાન્સ કલાર્ક થી પડ્યા સાહેબ મને નોકરી ઉપર લેવાની ના પાડે છે. માટે આપ સાહેબ ને મારી નમ્ર અરજ છે. કે હાલમાં નવા બોર્ડર જેનો નંબર ડી. જી. પોસ્ટ મેમો નંબર ૪૫-૨૭/૮૫ -એસ. પી. બી. ૧ તારીખ ૨૫-૫-૮૫ ના મુજબ એન્ટ્રાન્સ ની છુટ છાટ આપવામાં આવી છે. એમ મુજબ આપ સાહેબ ને મારી નમ્ર વિનંત છે કે ઉપર જણાવેલ બોર્ડર મુજબ મને કેજયુલ લેખર તરીકે અય. આર. બો. રેકૉર્ડ અમદાવાદમાં નોકરી લેવા મહેરમાની કરશો. આરા રાખું છું કે, આપ સાહેબ મારા જેવા ગરીબ માણસને -યાચ આપવા મહેરમાની કરશો.

આપનો વિશ્વાસુ,

નકલ રવાના :-

- ૧) સુપ્રિટેન્ડેન્ટ સાહેબ શ્રી,  
આર. એમ. એસ. એમ. ડી. બિઝન,  
અમદાવાદ - ૪.
- ૨) એ. જી. પઠાણ,  
ડિવિઝન સેક્રેટરી નેશનલ યુનિયન,
- ૩) આર. એમ. બારોટ. આ.-૪ સાર્કલ સેક્રેટરી નેશનલ યુનિયન -૪  
અમદાવાદ - ૪.

( ઉસાબેન કે. જાદવ )

TRUE COPY.

(Advocate)

સેવામાં :- ઉસાબેન કે. જાદવ.  
કેજયુલ મજકુર વોટરબુ મેન  
અય.આર.ઓ.(આર)  
અમદાવાદ-૩૮૦ ૦૦૨.

તારીખ:-૧૦/૩/૧૯૮૭.

પ્રતિ, શ્રી,  
સીનીયર સુપ્રિમટેન્ડન્ટ,  
આર.એમ.એસ.,  
એ.એમ.ડીબીઝન,  
અમદાવાદ-૩૮૦ ૦૦૪.

અય.આર.ઓ.(આર) મારફત રવાના :

વિષય:- નોકરી ઉપર લેવા બાબ ત:

મહેરબાન સાહેબ,

વિ.વિ.સાથે લખવાનું કે, હું છેલ્લા ૨ વર્ષથી અય.આર.ઓ. (આર) અમદાવાદમાં કેજયુલ મજકુર વોટર બુ મેન તરીકે નોકરી કરતી હતી. પણ છેલ્લા એક માસથી મને નોકરી ઉપર લેવા નથી. માટે આપ સાહેબને ઉપર મુજબની તારીખ: ૬-૨-૮૬ ના રોજ એક બિનતી સરી અરજી કરી હતી.

આપ સાહેબને મારી નમ્ર બિનતી છે કે, આપ સાહેબ મને સ્પેશ્યલ કેશ તરીકે નોકરી ઉપર લેવા મહેરબાની કરશો.

આશા રાખું છું કે, આપ સાહેબ મને નોકરી આપીને મારા ઉપર તથા મારા પરિવાર ઉપર મહેરબાની કરશો.

નકલ રવાના:-

હેડ રેકૉર્ડ્સ ઓફીસર, (આર),  
આર.એમ.એસ.,  
અમદાવાદ-૩૮૦ ૦૦૨.

આપની વિશ્વાસુ.

(ઉસાબેન જાદવ)

TRUE COPY.

(Advocate)

1612

Annexure A/3

INDIAN POSTS AND TELEGRAPHS DEPARTMENT

Mr./Mrs./~~Kum~~ Hansaben Water Woman -

whose signature is given below is a bonafide  
employee of the P & T Department. His services are  
essential for Emergency duties. This identification  
is issued to him to enable him to go and to come  
back from the place of duty during the curfew  
period.

This identification will remain in force  
till the restoration of normal position.

Place: Ahmedabad

Date: 7.6.85

Sd/-

Signature of  
the official

Sd/-

Signature of  
issuing authority.

(Seal)

TRUE COPY.

(Advocate)

17.7

(13)

BEFORE THE CENTRAL ADMINISTRATIVE  
TRIBUNAL AT AHMEDABAD.

O.A.NO.561/89.

Smt.H.K.Jadav. .. Applicant.

VS

Union of India  
and others. .. Opponents.

REPLY ON BEHALF OF  
THE OPONENTS.

I, Shri R.N. Parzakh Sr. Supdt. of  
Rms 'Am' Ahmed.

do hereby verify and state in reply to the  
application as under.

1. I have read the application and perused  
the record and competent to file this reply. I do  
not admit such of the averments made in the  
application except which are specifically admitted  
by me and I hereby deny the same.

2. At the outset, it is submitted that  
the present application is misconceived and not  
maintainable and deserves to be rejected. The  
applicant has not exhausted all other remedies  
available under the Rules. The application is  
filed beyond period of limitation. The impugned  
order is legal and valid.

Sub. objection  
filed 10/7  
M. H. Patel  
C. H. Patel  
D. H. Patel  
22/6/89

35A

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4. Referring to para-III, it is submitted that her services have been terminated with effect from 18-4-1988.

5. Referring to para-IV, it is submitted that this Hon'ble Tribunal has no jurisdiction to entertain the present application as it is filed beyond period of limitation.

6. Referring to para-VI-1, the applicant was engaged as a part time water woman-cum-sweeper on a daily rated basis by way of stop gap arrangement. It is submitted that as per circular letter dated 25-5-1985, no daily rated person who was engaged on or after 7-5-1985 were to be retained. It is denied that her services were terminated with a view to accommodate other employee as alleged. It is submitted that no legal right much less Constitutional right of the applicant is violated.

Referring to para-VI-2, the applicant's services were terminated as per the above referred circular letter dated 25-5-1988, she is not eligible to be brought on the approved list prepared as per the said circular letter.


Referring to para-VI-3, it is submitted that as per the letter dated 25-5-1985, the department has followed the judgment of the Supreme Court for preparation of list of the casual mazdoors. It is submitted that list of

(13)

Referring to para-VI-6, it is submitted that the services of the applicant were terminated in view of the compliance of the above referred circular letter dated 25-5-1985 issued by the D.G.(P) New Delhi.

7. In view of the aforesaid facts and circumstances of the case, there is no merit in the application and the same deserves to be rejected. ~~XXXXXXXXXXXXXXXXXXXX~~ The applicant has already been terminated long back.

DATE: 21-6-90


  
Sr. Supdt. of RMS.  
AM. Da. Ahmedabad-380004

VERIFICATION

I, Shri R.N. Parekh Sr. Supdt. of RMS  
AM. Da. Ahmedabad

do hereby verify and state that what is stated hereinabove is true to my knowledge, information and belief and I believe the same to be true.

DATE: 21-6-90

  
Sr. Supdt. of RMS.  
AM. Da. Ahmedabad-380004

Reply/Rejoinder/written submissions  
filed by Mr. J. O. Mehta  
learned advocate for respondent  
Respondent with second  
Copy served/not served to the

Di. 22/6/90 Dy. Registrar C.A.T (U) 22/6/90  
A'bad Bench

16

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

AT AHMEDABAD

O.A. NO. 561/89

Smt H. K. Jadav

.. Applicant

Vs

Union of India & Ors.

.. Respondents

REJOINDER

1. I, Smt. H. K. Jadav, applicant, have gone through the reply filed by the respondents and am conversant with the facts of the case and I say that the contentions and submissions of the reply are far from truth and are denied by me. I deny all the contentions and submissions of the reply except those, which are specifically admitted by me in this rejoinder.

2. With reference to para 2 & 3 of the reply, I say that it is not true that the application is misconceived and not maintainable. It is not true that there is no alternative efficacious remedy available to the applicant. It is not true that the application is filed beyond limitation. I called upon the respondents to produce the details for regularisation of services of casual labourers as per the letter dt. 25.5.85 by the Director General. The contention of respondent about not sponsoring her name by the employment exchange is misconceived and not maintainable. The applicant cannot be deprived of regular absorption on the ground of name is not sponsored by the employment exchange. Once the applicant has worked for more than 3 years, she cannot be thrown out of employment under such misconception of the respondent deptt. I say that the Hon'ble Tribunal has taken the view that drawing the deadline for absorption of the casual labourers

of the year 1985 is illegal and arbitrary. It is not true that the applicant cannot be regularised and the case of the applicant cannot be discriminated on the ground of engagement as casual mazdoor with effect from 22.5.85. It is not true that there is no merit in the application and deserves to be dismissed.

3. With reference to para 4 to 6 are concerned, it is not true that the Hon'ble Tribunal has no jurisdiction to entertain the present application and the application is beyond limitation. That the contention regarding circular dt. 25.5.85 is concerned, drawing the deadline of 7.5.85 is held to be ultra vires to the Constitution of India by the Hon'ble Tribunal. I reiterate that I am terminated with a view to accomodate other employees. It is not true that no legal right of the applicant is violated by the respondents. It is not true that the respondents have followed the judgement of the Supreme Court. Supreme Court has directed to frame a scheme for regular absorption of the casual labourers who have completed one year of services. I called upon the respondents to produce the list, if any, prepared by them for regular absorption. The other contentions regarding the date stated in the circular etc. are misconceived and not maintainable. It is not true that the applicant is not a 'workman' and the respondent department is not an 'industry'. The respondents did not care to read the decision of the court of law. It is not true that the provision of I.D. Act has no relevance in the present application. It is not true that the applicant should avail alternative remedy by way of raising industrial dispute. It is not true that the respondents have prepared the seniority list. If such list is prepared, I called upon the respondents to produce before this Hon'ble Tribunal. That the obligation to maintain the seniority is under the provisions of I.D. Act, and there is

17

no such provision that the workman who is engaged after 7.5.85 should not be listed in the seniority list. It is not true the principle of last come first go has no relevance. It is not true that the respondents have not adopted hire and fire policy. It is not true that there is no merit in the application and deserves to be rejected. I say that the termination of services is bad in law. If the respondents want to terminate the services of the applicant, the principle of natural justice is required to be followed. That no mandatory provisions of law are violated. I reiterate and rely my grounds taken in the application and say that the application is required to be allowed with cost.

*[Signature]*

VERIFICATION

I, Smt. Hanshaben Jadav, applicant, do hereby state and verify that what is stated above is true to my knowledge and information and I believe the same to be true.

Date : 1/2/91  
Ahmedabad

*[Signature]*

સાચી જાણ સત્ય

Reply/Rejoinder/written submissions  
filed by Mr. P. H. Patel  
learned advocate for petitioner/  
Respondent with second  
Copy served/not served

Dt 1/24/91  
Dy. Registrar CAT (J)  
A'bad Bench