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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH: JODHPUR**

Original Application No. 99/2005

Date of decision: 22.02.2006.

Hon'ble Mr. Kuldip Singh, Vice Chairman

Smt. Parvati, W/o Chran Gujrati, by caste Harijan, r/o Ratanada, Harijan Basti, Jodhpur, presently serving as Sweeper (Class IV employee) in the Office of Joint Commissioner, Customs, Panch Batti Choraya, Jodhpur.

: Applicant.

Rep. By Mr. R. K Soni : Counsel for the applicant.

Versus



1. Union of India, through Finance Secretary, Ministry of Finance, Government of India, New Delhi.
2. The Commissioner of Custom, Commissionerate, Jaipur New Central Revenue Building, C Scheme, Jaipur.
3. The Additional Commissioner, Customs, Jodhpur.
4. The Joint Commissioner, Customs, Panch Batti, Jodhpur.

Rep. By Mr. Vinit Mathur : Counsel for the respondents.

ORDER

Per Mr. Kuldip Singh, Vice Chairman.

The applicant has filed this O.A seeking regularisation of her services on the post of Sweeper with all consequential benefits.

2. The facts, as alleged by the applicant in brief, are that she had been continuously and satisfactorily working on the post of Sweeper, in the Department of Customs at Jodhpur since September 1990. It is submitted that the Government of India, Ministry of Finance, Department of Revenue, had issued a circular on 24.09.1999, prescribing that casual workers who were recruited prior to 07.06.88 and who were on service on

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08.04.1991, were entitled to regularisation. It is further submitted that in the office of respondent No.4, one post of Sweeper is lying vacant and as the applicant is continuously working since September 1990, she should be regularized. It is also submitted that the applicant had submitted a representation for regularisation which has been turned down by the impugned order dated 22.03.2005 (Annex. A/1). Hence this O.A.

3. The respondents are contesting the O.A by filing a detailed reply. The respondents have submitted that the applicant has failed to establish that she is continuously working since 28.09.1990 and she has not submitted any document in support of the same. It is further submitted that the applicant seeks regularisation in the garb of the Scheme laid down by the Department of Personnel and Training, OM dated 10.09.93, wherein it has been laid down that full time casual labourers who have rendered 206 days on the date of issue of the said Scheme, were entitled to be conferred temporary status and thereafter regularisation in accordance with the Scheme. It is averred that the applicant had been working with the department on part time basis for two to three hours in a day for sweeping and cleaning of office and after completing cleaning work, no job is being assigned to her for full day and she has also not been given the part time job of cleaning and sweeping the office of the respondent department. Therefore it is submitted that the applicant's case is not covered under any scheme for regularisation.

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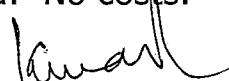
4. I have heard the learned counsel appearing for both parties and perused the records carefully. The learned counsel appearing for the applicant submitted that as per the clarification received by the respondent's department (Annex. A/2), the same was issued on 24.09.99 and it covered those casual labourers who were recruited prior to 07.06.88 and who were in service as on 08.04.91 and therefore it would be applicable to those persons recruited on 06.06.88 and till 24.09.99. that is to those employees who had put in about 11 years, are entitled to be regularized and in the case of the applicant she had been working since 28.09.90, continuously and therefore she has rendered more than 11 years service and hence she should also be regularized.



5. In my considered view, this submission of the learned counsel for the applicant has no merit since the cut off date mentioned in the circular i.e. 07.06.88, is based on policy decision of the Government of India and it covers only those casual workers cases who were recruited prior to 07.06.88 and had continued even on 08.04.91, were entitled to be regularized. This cut off date had been prescribed in order to put an end to back door recruitment. Further, if particular length of service had been criteria for regularisation, it would have been simply stated that casual workers who have put in the particular length of service are eligible for regularisation. But there is no such proposition in the said circular Annexure A/2 dated 24.09.99. Hence this contention of the learned counsel for the applicant has no merits. Further this Tribunal cannot direct the authorities

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to regularize the service of the applicant without following proper procedure as per rules and instructions on the subject, which would tantamount to encouraging back door entries in Government service. Thus I find no merit in this application and accordingly it is dismissed. No costs.



(Kuldip Singh)
Vice Chairman

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