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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

ORIGINAL APPLICATION NO. 184/2006

DATE OF DECISION : THIS THE 26TH DAY OF APRIL, 2007.

CORAM :

**HON'BLE MR. JUSTICE M. RAMA CHANDRAN, VICE CHAIRMAN
HON'BLE MR. R.R. BHANDARI, ADMINISTRATIVE MEMBER**

Smt. Ganga Devi W/o Late Shri Shravan by caste Harijan aged 31 years Resident of Chhoti Guwad, Pabubari, Harijan Basti, Bikaner. Contingent Paid employee under Respondent No. 5.

.....Applicant.

By Mr. Nitin Trivedi, counsel for the applicant.

Versus

1. Union of India through the Secretary, Department of Posts, Ministry of Communication, Dak Bhawan, Sansad Marg, New Delhi.
2. The Chief Post Master General, Rajasthan Circle, Department of Posts, Jaipur.
3. The Post Master General, Western Region, Head Post Office, Rajasthan, Bikaner.
4. The Superintendent of Post Offices, Bikaner Division, Head Post Office, Bikaner.
5. The Post Master, Head Post Office, Bikaner.

.....Respondents.

By Mr. M. Godara, Advocate brief holder for

Mr. Vineet Mathur, for the respondents.

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O R D E R [ORAL]
[BY M. RAMACHANDRAN]

The applicant has come up in this O.A. challenging the order at Annex. A/1 dated 2/3.5.2006. It is stated therein that out of two posts of Sweeper, one post could be kept vacant and the working hours of present incumbent be increased to eight hours. The other post was to be vacant for ever. The beneficiary was thereby converted to full time ~~contingent~~ from part time contingent. It is stated that this was consequent to the judgement of this Tribunal in O.A. No. 184 of 2004 decided on 9.8.2005. The consequence according to applicant was that she was working against a Contingent post, was not to be employed any more. It was in this context, that the present application has been filed, seeking a relief to quash the order at Annex. A/1, as also Annex. A/2, which is the basic order bringing about the change. The matter had come up for adjudication and on consent, parties were heard and is being finally disposed of.

2. Notices have been issued to the respondents and there is appearance on behalf of the respondents who has filed a detailed counter affidavit controverting the contentions raised in the application.

3. The applicant claimed that she had been working as a part time contingent paid Sweeper, in the Bikaner Head Post Office of the P.&T. Department, from 1996 onwards and in the year 1999, she had put an application for her regularisation, but, no heed has been paid at that time and because of the impugned orders, she was likely to be thrown-out.

4. According to her, initially, her husband, who recently had passed away, was employed as E.D. Sweeper and later on, as a part time contingent paid Sweeper and in his place, the applicant was working as a substitute during all these years and her claim, to discharge the duties of the post, cannot be ignored. However, the respondents have given full details by filing reply and we have necessarily to take notice of the submissions made on behalf of the respondents, so as to get a full picture of the sequences pertaining to this case.

5. It appears that there were two posts of E.D. Sweepers attached to the said Post Office. On 10.12.1987, both the posts were abolished. However, two posts of contingent paid Sweeper had been created and one of the post was occupied by Mr. Raju, and on other post, Mr. Shravan Kumar, the husband of the applicant. They were so working from 1987 onwards. In the year 1996, it is evident that applicant's husband left the job without assigning any reason whatsoever, but, on the other E.D. Post Mr. Raju continued to work. Respondents reveals that during 1999, Mr. Raju, had filed O.A. No. 59/1999, seeking his regularisation as Sweeper which had been dismissed vide order of this Bench dated 10.4.2000.

6. Later, in the year 2004, there was a departmental decision whereby a proposal had been presented for giving the job of Sweeper on contract basis. Resultantly, the post of Contingent E.D. Sweepers were to be no more available. Against such proceeding, the said Shri Raju, had filed O.A. 184/2004 wherein the respondent - department had contended that

applicant had no cause of action for filing the case and it was premature and not maintainable. The respondents had also taken a stand that applicant has approached the Tribunal and his claims has already been adjudicated and decided by this Tribunal earlier in O.A. No. 59 of 1999 on 10.4.2000. Looking to the aspect of long service of about 22 years, this Tribunal, in that O.A., had directed the respondents to convert the status of the applicant, forthwith, from part time casual labour to full time casual labour.

7. Admittedly, a Writ Petition (580/1996), before the Division Bench of the Hon'ble Rajasthan High Court at Jodhpur had been filed. The Writ Petition was rejected upholding the order passed by this Tribunal. Thereafter, the impugned orders at Annex. A/1 and A/2 came to be passed. According to Department, to comply with the directions of this Tribunal as well as that of the Hon'ble High Court, the status of said Shri Raju was converted as full time casual labour by enhancing the working hours from 5 to 8 and on regular basis. Therefore, it is seen that a decision has been taken to keep one of the post vacant for all time to come and to confer work solely to Shri Raju. It is further submitted that the Department never conferred any appointment to the applicant as a part time contingent employee, and at the most, she might have been engaged on casual terms, but that did not create any right for her to be agitated, for continuous employment.

8. Perhaps, when the husband of the applicant Shri Shravan Kumar, left the job and did not turn up, the applicant

Smt. Ganga Devi might have been working in his place as a substitute part time contingently paid sweeper. No appointment letter or charge report has been produced to show that she was an employee of the respondents. The work which she was doing as a substitute, was purely of casual nature and therefore, no rights have accrued on her for claiming regularisation. Even if it is presumed that, she was engaged on occasions, this was not sufficient to uphold/accept her claim so as to upset the situation that has been brought about ^{By} ~~any~~ judicial interference and as per the policy in vogue. The settled position could not have been reversed at the hands of the applicant and the O.A. is, therefore, without any merit.

9. The averments in para 4.9 of the written statement which indicated that applicant might have been engaged for sweeping purposes as Part Time Contingent Labour (PTCL) was attempted by the counsel for arguing that the Department has no consistent case. But, while adjudicating an issue, we have to examine the matter in its entirety, and it may not be safe to pin down a party on a statement, which is not in line with the principal contentions. It was not possible for the applicant to place on record or bring any convincing material in the nature of ~~appointment~~ order or any other records, to show that she is being paid wages continuously from month to month from 1996 onwards up to 2007 on regular basis. In fact, payment records relating to even one month has not forth-come. Therefore, her claim cannot be considered.

10. We have also to take notice of a situation that she had

never bothered to pursue her claim at any time even when there was a proposal by the Department to abolish the post altogether and to bring in a contractor. On the other hand, Shri Raju had put in about 24 years of service and ultimately, stands regularised. Therefore, the work of the existing second post can very well be carried out by one person on full time basis. The Department is work oriented and cannot be employment oriented. In such circumstances, we find hardly any justification for interference in the orders passed by the respondents. The O.A. is, therefore, dismissed with no orders as to cost. The disposal of the O.A. as above, will not preclude the claim of the applicant for any compensation which she may urge on legal basis.

R.R.Bhandari
(R.R.Bhandari)
Admv. Member

M.Rama Chandran
(M.Rama Chandran)
Vice Chairman (J)

jrm

Part II and III destroyed
in my presence on 03-6-14
under the supervision of
section officer () as per
order dated 26-5-14.

Section officer (Record)

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