

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 446/05

Thursday this the 14th day of September, 2006

CORAM

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

Sudhakumari.C. (Sudha.C)

W/o R.Thirumoney,
Mulakkal House, Thevally,
Kollam.691009.

...Applicant

(By Advocate Mr. B.Raghunathan)

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1 Union of India, represented by the
Secretary to Government,
Ministry of Defence,
Government of India,
New Delhi.

2 Defence Pension Disbursing Officer,
185, Polayathodu,
Kollam.691 010.

3 Controller of Defence Accoutns,
506, Annasala, Teynampet,
Chennai.600 018.

.....Respondents

(By Advocate Mr. Thomas Mathew Nellimootil)

The application having been finally heard on 14.9.2006, the Tribunal on the same day delivered the following:

ORDER

The applicant in the present O.A has sought a direction to the respondents to permit her to continue in service as an Adhoc/Part-Time Sweeper and to regularize her services in Group 'D' post. She has also sought further direction to the respondents not to engage any other employees on contract basis in the position held by her.



2 According to the applicant, though she was engaged as an adhoc/Part-Time Sweeper with effect from 28.1.1993 yet she was being paid wages in lump-sum in a month calculated on daily basis. While she was performing her duty without any interference, without any notice, suddenly she was not being engaged with effect from 1.11.2004. According to her she is entitled to continue to do the work and further get regularization in service.

3 The respondents had denied her claim to be an Adhoc/Part-Time Sweeper (Casual Labour) and submitted that she was introduced for the job by her husband Shri R.Thirumoney employed as a Record Clerk in the office of the second respondent, namely, the Defence Pension Disbursing Officer, Kollam. Her services for sweeping the office premises was utilized on payment of wages which was calculated for the number of days her service were utilized. They have further submitted that though the applicant's services were utilized on part-time basis for the purpose of cleaning the office premises, service of another person named, Chellamma, was also utilized and both of them were paid service charges. The applicant's service was terminated with effect from 5.7.04 by an official intimation sent to her vide letter dated 5.7.04 which could not be served on her by the postal authorities as she had left the address without any instructions and her present address is not known. They have also submitted that after the applicant was not being engaged from 5.7.04, the job performed by her was entrusted to a Women's Self-Help Group "Jwala Women's Association, Kollam." Since she was not forthcoming to receive the service charges, for the period from 1.11.03 to 31.5.04 an amount of Rs. 4260/- was sent to her by way of cheque.

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4 I have heard Shri R.Raghunathan, learned counsel of the applicant and Shri Thomas Mathew Nellimootil, learned counsel for the respondents. It is an admitted fact on behalf of the respondents that "the applicant's services were utilized on part-time basis from 28.1.93 to 5.7.04 with intermittent breaks and she was paid on daily rates for the days she did sweeping and cleaning job." From the fact that her services as Sweeper was utilized on part-time basis for the long 11 years from 28.1.93 to 5.7.04 it is quiet evident that there was work available for her to be engaged as a Part-Time Sweeper. Moreover, suddenly the work which was being performed by the applicant for the last 11 years has been entrusted to a contracting firm and the payments are made to them. The contention of the respondents on one hand that she has not been an Adhoc/Part-Time Sweeper and the admission on the other hand that her services were utilized on part-time basis is quiet a contradictory one. In my considered opinion this is a case of clear exploitation. The applicant has been admittedly serving the respondents for over the last 11 years, but she has been treated as nothing or as a non-entity. In the above circumstances I consider that the applicant should have been treated as a Part-Time Sweeper and the benefits accruing to her on conferment of such status should have been granted to her.

5 During the pendency of this OA, as an interim measure, considering the fact that the applicant having been permitted to do the job for more than 10 years without considering her for regularization, it was held that respondents' action in engaging contract labour in her place was not in the interest of justice and accordingly the respondents were directed on 25.8.05 to engage her in preference to any contract labour.

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6 In the above facts and circumstances of the case, I direct that the respondents shall treat the applicant as a Part-Time Sweeper from the date of her engagement w.e.f 28.1.1993. However, she shall be entitled for consequential monetary benefits only from the date she has been re-engaged on the directions of this Tribunal dated 25.8.05. She shall also be granted all other benefits as available to a Part-Time Sweeper from 28.1.93 ignoring the intermittent breaks in utilizing her service. The respondents shall issue necessary orders accordingly within a period of two months from the date of receipt of this order. There shall be no order as to costs.

Dated this the 14th day of September, 2006


GEORGE PARACKEN
JUDICIAL MEMBER