

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.486/2001.

Friday this the 19th day of April 2002.
CORAM:

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

Beena C.S., W/o Shaji,
Ex-casual Labour,
Passport Office, Trivandrum,
residing at Bindu Vihar,
T.C.No.25/290/I, Thampanoor,
Trivandrum.

Applicant

(By Advocate Shri P.Ramakrishnan)

Vs.

1. Union of India, represented by
Secretary to Government,
Ministry of External Affairs,
New Delhi.
2. The Joint Secretary and Chief Passport
Officer, Ministry of External Affairs,
New Delhi.
3. The Passport Officer,
Regional Passport Officer,
Trivandrum. Respondents

(By Advocate Shri S.K.Balachandran, ACGSC)

The application having been heard on 19th April 2002
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

The applicant initially having been sponsored by the Employment Exchange, was engaged as Casual Labourer under the 3rd respondent with effect from 3.8.92. Her services were terminated w.e.f. 17.4.98. Pursuant to the orders of the Central Administrative Tribunal, Ernakulam Bench in O.A.2034/93 she was re-engaged as Casual Labourer w.e.f.5.7.99. Apprehending termination of service and aggrieved by non-consideration for grant of temporary status and regularisation, the applicant along with two others filed O.A.396/00. Taking note of the statement

made on behalf of the respondents that there was no intention to terminate the services of the applicants, that O.A. was disposed of by order dated 30.11.2000 directing the respondents to issue orders regarding the grant of temporary status to them and to engage them so long as the work is available in preference to persons who have lesser length of service. In the meanwhile, owing to illness the applicant could not report for duty for some time. However, by impugned order dated 4.12.2000 the services of the applicant were terminated. The impugned order reads as follows.

"Smt. C.S.Benna, was engaged as Group 'D' Casual Worker in this office on 5.7.99 in compliance with the Hon'ble CAT, Ernakulam Bench Judgement dated 5.4.94 in O.A.2034/93 etc. Her services as Casual Worker are hereby terminated due to continuous unauthorised absence from duty with effect from 8.11.2000."

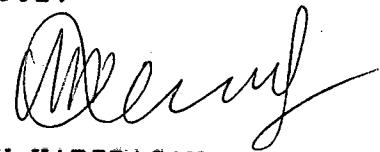
2. Aggrieved by the impugned order alleging that the action of terminating the services of the applicant without notice is arbitrary, irrational and made out of vengeance, the applicant has filed this application for setting aside A-2, for a direction to the respondents to reinstate the applicant in service with full backwages and continuity in service.
3. The respondents admit that the applicant was found entitled to grant of temporary status by the Tribunal's order in O.A.396/00. They have also stated that the order dated 27.2.2001 granting temporary status to the applicant w.e.f. 1.9.93 with other consequential benefits have been issued to the applicant. The termination of services of the applicant by the impugned order is sought to be justified on the ground that the applicant remained unauthorisedly absent and that she had made her mind clear not to report for duty to one Superintendent.

4. I have gone through the pleadings and material placed on record and I have heard Ms. Sandhya, advocate on behalf of the counsel for applicant and Shri S.K. Balachandran, ACGSC for the respondents. The impugned order of termination of services of the applicant was made for a specific misconduct of unauthorised absence. It is not in dispute that the applicant was found to be entitled to grant of temporary status with effect from 1.9.93 by this Tribunal's order in O.A. 396/00 and the respondents were directed to issue orders granting temporary status to her. Casual labourers with temporary status are entitled to a notice before termination. Further, even if it is presumed that the applicant was a casual labourer who had not attained temporary status, for terminating the services of the applicant which commenced about a decade ago a notice and an opportunity to show cause should have been given. Abrupt termination of the applicant by the impugned order for the misconduct of unauthorised absence without even issuing a notice to the applicant is, violation of principles of natural justice and is, therefore, absolutely unsustainable.

5. In the result, in the light of what is stated above, the impugned order is set aside. Respondents are directed to re-instate the applicant in service forthwith as Casual Labour and continue to engage the applicant in preference to persons who has lesser length of service than her and consider her for regularisation in service in her turn. The applicant shall be deemed to have continued in casual service as if the impugned order A-2 is not taken effect. The number of days on which person with lesser length of service than the applicant was

engaged, should be treated as the days for which the applicant had rendered service during the period she was kept out of service on the basis of the impugned order. However, the applicant shall not be entitled to any backwages for this period. The above direction shall be complied with and the applicant taken back in casual service forthwith at any rate later than a period of one month from today. No order as to costs.

Dated the 19th April, 2002.



A.V.HARIDASAN
VICE CHAIRMAN

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APPENDIX

Applicant's Annexures:

1. A-1 : True copy of order dated 30.11.2000 in OA 396/2000 of this Hon'ble Tribunal.
2. A-2 : True copy of Memorandum No.5(107)AD/TVM/93-Vol V dated 4.12.2000 issued by the 3rd respondent to the applicant.
3. A-3 : True copy of representation dated 10.1.2001 from the Applicant to the 2nd respondent.
4. A-4 : True copy of Medical Certificate dated 8.1.2001 issued by the Assistant Professor in Psychiatry, Medical College Hospital, Trivandrum.

Respondents' Annexure:

1. R-1 : True copy of Memorandum No.5(118) AD/TVM/93 dated 27.2.2001 issued by the 3rd respondent.

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