

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 310 of 2013

wednesday, this the 20th day of November, 2013

CORAM:

HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

Jayakumar K
Keezhkady Veedu
TC 50/102(3), Kalady
Karamana P.O
Thiruvananthapuram – 695 002

... **Applicant**

(By Advocate Mr. Vakkom N Vijayan)

versus

1. The Union of India, represented by the
Secretary to the Govt. of India
Department of Revenue
Ministry of Finance
Govt. of India, New Delhi – 110 001
2. The Chairman
Department of Revenue
Ministry of Finance
Govt. of India, New Delhi – 110 001
3. The Director
AD.111(B), Department of Revenue
Ministry of Finance
Govt. of India, New Delhi – 110 001
4. The Chief Commissioner of Central Excise /Customs
Cochin Zone, IS Press Road
Kochi – 682 018
5. The Commissioner of Central Excise & Customs
T.C. No. 26/334, Press Club Road,
ICE Bhavan, Thiruvananthapuram – 695 001
6. The Assistant Commissioner of Customs
Customs Division, Press Club Road,
ICE Bhavan, Thiruvananthapuram – 695 001

... **Respondents**

(By Advocate Ms. Jishamol Cleetus, ACGSC)



This application having been heard on 31.10.13, the Tribunal on
20-11-13 delivered the following:

ORDER

HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

The applicant had filed O.A. No. 796/2012 which was disposed disposed of by this Tribunal by directing the respondents to consider his representation and pass a speaking order thereon. In compliance, impugned order at Annexure A-4 was issued by the respondent No. 3 rejecting his representation for regularisation in the service of the respondents. Aggrieved, he has filed this O.A for the following reliefs:

- (i) To call for the records connected with the case;
- (ii) To quash Annexure A-12;
- (iii) To direct the respondents to take immediate steps to regularize the services of the petitioner as initiated in Annexure A-9;
- (iv) To grant such other reliefs as this Hon'ble Tribunal may deem fit, just and proper in the circumstance of the case.

2. The applicant contended that he is in service as Part Time Casual Labourer continuously for the last 16 years. His name was sponsored by the Employment Exchange; hence he is entitled to regularization. The rejection as per Annexure A-12 by the 4th respondent is discriminatory in view of Annexure A-9 issued by a superior authority. The rejection of the claim of the applicant is to circumvent the protection offered to the working classes under benevolent legislations enacted from time to time. All employees who were working for long without any break should not be treated as ad hoc.

3. The respondents in their reply statement submitted that the applicant was engaged as a Part Time Casual Labourer without any promise of regularization in a permanent post. Persons are appointed to work as Part Time Casual Labourer only for work of casual or seasonal or intermittent nature or for work which is not of full time nature for which regular posts cannot be created by the Government. The casual labourers who were granted temporary status in Annexure A-7 list are those casual labourers who had been appointed prior to 01.09.1993. All other casual labourers , including the applicant, are those who have been appointed after 01.09.1993 to whom the terms of Annexure R-3 O.M. dated 10.09.1993 of the DoP&T did not apply. There were no vacancies in Group-D cadre till the year 2010. Following the implementation of the VI Central Pay Commission recommendations, the vacancies in Group-D posts which had arisen in the year 2010 and onwards, have been upgraded in Group-C posts with effect from April, 2009. As per the direction of the Hon'ble Supreme Court, the services of irregularly appointed persons who have worked for ten or more years in duly sanctioned posts can only be regularized as a one time measure. The applicant is not eligible for regularization under the Scheme for Regularization of Casual Labourers issued by the DoP&T vide O.M dated 10.09.1993 since it is applicable only for those casual labourers who were in service as on 01.09.1993. The applicant had joined the post of Part Time Casual Labourer only in the year 1997. Hence he is not entitled for such regularization.

4. In the statement filed by the learned counsel for the applicant, it was submitted that from the date of appointment the nature of work assigned to the

applicant was to sweep the office of the Central Excise Divisional office, Kaithamukku, Trivandrum. He was also assigned the work of cleaning etc. apart from attending the duties of sepoy. He attended the office on all days except weekly holidays. He was treated as casual labourer with temporary status as per Annexure A-19.

5. In the statement filed on behalf of the respondents, it was submitted that the CBEC has already refused regularization of service of casual workers without temporary status as their cases of regularization are not covered under any of the guidelines issued by the Department.

6. I have heard the learned counsel for the parties and perused the records.

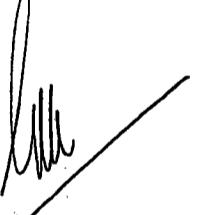
7. The applicant is a Part Time Casual Labourer without temporary status. He has been appointed purely on provisional basis without any reference of giving a permanent post. The contention that the applicant was appointed against a duly sanctioned post is factually incorrect. The direction of the Hon'ble Supreme Court in Civil Appeal No. 3595-3612/1999, **Secretary, State of Karnataka vs. Umadevi and Others**, was for regularization of persons who had worked for 10 years or more in duly sanctioned posts, as one time measure. The applicant has not been appointed against any sanctioned post. Further, the Scheme for Regularization of Casual Labourers issued by the DoP&T vide O.M. dated 10.09.1993 is applicable only for those casual labourers who were in service as on 01.09.1993. As the applicant was engaged as Part Time Casual Labourer only from 23.09.1997, he is not

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eligible to be considered under the said Scheme. With the implementation of the recommendations of the VI Central Pay Commission, all Group-D posts have been upgraded to Group-C posts with effect from April, 2009. The impugned order is a speaking order. The applicant may have been engaged as Part Time Casual Labourer for a long period of time without any break. He may have been sponsored by the Employment Exchange. In the advance receipt at Annexure A-19, he may have been shown as casual labourer with temporary status. None of them confer upon him any vested right to be appointed against a regular post/vacancy in the Government. He is neither covered by the decision of Hon'ble Supreme Court in Uma Devi's case nor was he a casual labourer on 01.09.1993. With the implementation of the recommendations of the VI Central Pay Commission, there are no Group-D posts available now.

8. In the result the O.A fails. The O.A is dismissed with no order as to costs.

(Dated, the 20th November, 2013)


(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER

CVR.