

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 42 of 1999

Monday, this the 21st day of May, 2001

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER
HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

1. M. Azhagar,
S/o Mookan Pakadi,
Kalluthankadavu Colony,
Puthiyara, Calicut,
formerly part time Sweeper, Office of
the Assistant Commissioner of Incometax
Circle 21, Division, 2, Calicut.
2. Shanmugham M, S/o Marimuthu,
Corporation Colony, Red Cross Road, Calicut,
formerly part time Sweeper, Office of
the Assistant Commissioner of Incometax
Circle-I, Calicut.
3. P. Babu, S/o Chathukutty,
Palur House, PO West Hill, Calicut,
formerly part time Sweeper, Office of
the Assistant Commissioner of Incometax,
Circle-2, Calicut.Applicants

(By Advocate Mr. P. Ramakrishnan)

Versus

1. Union of India, represented by its Secretary,
Ministry of Personnel, Public Grievances and
Pension, New Delhi.
2. Chief Commissioner of Income Tax,
Central Revenue Building,
I.S. Press Road, Cochin-18
3. The Assistant Commissioner of Income Tax,
Circle 2, Division II,
Popular Automobiles Building,
Bank Road, Calicut.
4. Assistant Commissioner of Income Tax,
Circle I, Division I, Ayakar Bhavan,
Mananchira, Calicut-1Respondents

(By Advocate Mr. S. Krishnamoorthy, ACGSC)

The application having been heard on 21-5-2001, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

Applicants, three in number, seek to quash all proceedings by which their services are terminated and to direct the respondents to reinstate them in service with continuity of service, backwages and all consequential benefits and also to dispose of A4, A5 and A6 representations.

2. Applicants say that the 1st applicant was a part-time Sweeper in the office of the 3rd respondent from September 1992 to 6-9-1997, the 2nd applicant in the office of the 4th respondent from 1990 to 22-9-1997 and the 3rd applicant in the office of the 3rd respondent from 1993 to 6-9-1997. They submitted separate representations for regularisation of their services as per A1, A2 and A3. Their services were terminated. No formal orders were issued to them terminating their services. They submitted A4, A5 and A6 representations.

3. Respondents resist the OA contending that the OA is barred by limitation. Applicants have not worked as part-time workers under the department. The allegation of termination of their services is against facts. They were never appointed against any post in the Income Tax department. They are not eligible for temporary status.

4. A1 is the copy of the representation submitted by the 1st applicant to the 2nd respondent. Though the applicants say that they were employed as part-time Sweepers, it is pertinent to note that in A1 it is stated that:

"Sir, in this connection I am to state that it was none of fault that I was not made casual labourer on temporary status."

5. It is also stated in A1 that:

"Now I was informed by the office that I am not a casual labourer but only a coolie and I have got no right what so ever for the period I have worked."

6. Still further it is stated therein that:

"However the fact remains that I am working in the Income Tax Department for the last 4 years."

7. A2 submitted by the 2nd applicant to the 2nd respondent says that he is working as a Scavenger attending to cleaning work on daily wages. In A3 addressed to the 2nd respondent, the 3rd applicant has stated that he has been working as part-time Sweeper in the office of the Assistant Commissioner of Income Tax, Circle-2, Division-II, Calicut for the last three years.

8. From A1 it is seen that the 1st applicant himself is practically conceding that he was not a casual labourer but was only working there. That being so, he could be as a Coolie as he himself says in A1 he was informed by the Department. The 2nd applicant also does not say in A2 that he was working as a part-time Sweeper.

9. There is no mention in the OA even as to the exact date from which the applicants started working. It is very vaguely stated that the 1st applicant started working from September 1992 and the remaining applicants from the year 1990 and 1993 respectively. If the applicants were appointed as part-time Sweepers, they should definitely be in the know of the date of their appointment. There is no document to show that they were appointed as part-time Sweepers at any point of time. There is also no document produced to show that they were engaged as part-time Sweepers by the respondents.

10. If the applicants were really working as part-time Sweepers when they submitted A1, A2 and A3 to the 2nd respondent and if there was no response to the same, they would have in the normal course approached for the reliefs they are entitled to by preferring an Original Application within the stipulated time. They have not done it.

11. A4 dated 20th of September, 1997 is submitted by the 1st applicant to the 2nd respondent. A5 dated 30th of September, 1997 is submitted by the 2nd applicant to the 2nd respondent and A6 dated 20th of September, 1997 by the 3rd applicant to the 2nd respondent. At this juncture, it is interesting noting that it is the admitted case of the applicants that they were working as part-time Sweepers in the Income Tax department and in A4 to A6 they say that they were working as full time casual labourers. So, it is evident that there is no consistent case for the applicants.

12. R2 series will go in support of the stand of the respondents that the applicants were not engaged as part-time Sweepers and they were engaged only for cleaning toilets and dining rooms of the Department.

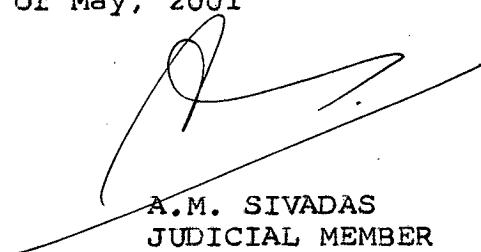
13. We do not find any merit in this Original Application.

14. Accordingly, the Original Application is dismissed. No costs.

Dated the 21st day of May, 2001



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

ak.

List of Annexure referred to in this order:

1. A1 True copy of the representation dated 16-1-96 submitted by the 1st applicant to the 2nd respondent.
2. A2 True copy of the representation dated 19-8-96 submitted by the 2nd applicant to the 2nd respondent.
3. A3 True copy of the representation dated 27-6-96 submitted by the 3rd applicant to the 2nd respondent.
4. A4 True copy of the representation dated 20-9-97 submitted by the 1st applicant to the 2nd respondent.
5. A5 True copy of the representation dated 20-9-97 submitted by the 2nd applicant to the 2nd respondent.
6. A6 True copy of the representation dated 20-9-97 submitted by the 3rd applicant to the 2nd respondent.
7. R2 True copy of the Vouchers and Bills.