

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

OA 853/99

MUMBAI, THIS THE 15TH DAY OF JUNE, 2001

HON'BLE SHRI SHANKAR RAJU, MEMBER (J)

Smt. Shanta Hanumant Bagde
R/o Lokmanya Nagar
Pada No.4 (Near Vishwakarma Nagar)
Thane (E) MAHARASHTRA.
and Working in the office of
The Principal Director of Audit
Central, Audit Bhawan, Bandra Kurla
Complex, MUMBAI - 400 051
as a casual Sweeper.

...Applicant

(By Advocate Shri P.A.Prabhakaran)

V E R S U S

1. The Principal Director of Audit
Central, Audit Bhawan, Bandra
Kurla Complex, MUMBAI 400 051.
Representing THE UNION OF INDIA.
2. Asstt. Audit Officer/Admn
Office of The Principal Director
of Audit Central, Audit Bhawan
Bandra Kurla Complex
MAHARASHTRA - 400 051.

...Respondents

(By Advocate Shri G.Neelkanth)

O R D E R

BY HON'BLE SHRI SHANKAR RAJU.

The applicant who has been working as a Safaiwali on daily wages since 1985 is seeking her regularisation as a Sweeper w.e.f. 1.1.87 with all consequential benefits. The applicant states that she was born in 1955 and was engaged as Sweeper/Safaiwali with the respondents and had been continuously working since 1985. The applicant contends that on 4.7.94 for the purpose of regularisation she has been asked to submit her caste

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certificate as well as ration card. The applicant had submitted the caste certificate and an affidavit of date of birth showing the proof of her residence but was not considered for regularisation. It is contended that the other casual labours employed as Sweepers later than the applicant have been regularise. The applicant made a representation to the respondents on 16.3.99 but of no avail. It is contended that the respondents have called for more names from the Employment Exchange for recruiting Sweepers with a likely discontinuance of the applicant. The applicant contends that she is entitled for regularisation and has been sponsored through the employment exchange and the proof of age has already been submitted by her to the respondents. As regards her age, it is contended that she was within the age limit when she was employed and in the gazetted the age has not been correctly recorded. It is also contended that in the year 1985 instructions have been issued to given age relaxation as one time measure. The applicant contends that after 14 years service she should not be deprived of the benefit of regularisation as she was within the zone of consideration and eligible as per the OM dated 23.8.88.

The respondents in their reply have rebutted the contentions of the applicant and by resorting to the fact that conditions of service in the office of the respondents are prescribed by the President which are statutory rules framed under Article 309 of the Constitution of India and as the applicant was not within

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the age limit and was not eligible to be considered and has failed to submit an authentic birth proof she cannot be considered for regularisation despite belonging to SC community. It is contended that even at the time of initial appointment she was beyond the age limit even after relaxation but still was engaged. It is denied that the applicant was engaged in 1985 but it is contended that she was engaged as a part time casual labour on daily wages in 1987. The applicant was neither sponsored through the employment exchange nor confirm to other criteria laid down under the statutory rules came into operation on 5.8.88. The applicant does not fulfil the conditions for regularisation and is absolutely illiterate. The case of the applicant was considered for regularisation in 1978 but on account of ^{being} ~~age barred~~ ^{he} ~~she~~ ^{is} was rightly denied the same. The authentic proof of date of her age is by way of an affidavit which is not correct. The respondents have further contended that the case of the applicant is absolutely barred by limitation as she is seeking regularisation w.e.f. 1987 whereas the present OA is filed only in 199 beyond the prescribed limit stipulated under Section 21 of the A.T. Act, 1985.

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I have carefully considered the rival contentions of the parties and perused the material on record. The case of the applicant is liable to be rejected on the ground of limitation. The applicant has been seeking regularisation from 1987 without any valid explanation for delay. As held by a Full Bench of this Tribunal in the case of Mahabir v. Union of India, 2000

(1) ATJ 1, that law of limitation also applies to a casual labour. I, therefore, hold that the claim of the applicant suffers from the vice of delay and laches and barred by limitation under Section 21 of the A.T. Act.

The case of the applicant is also liable to be rejected on merits. As per the statutory rules promulgated by the respondents in 1988 the applicant does not fulfil the conditions prescribed therein for regularisation. The applicant was not sponsored by the employment exchange. Mere averment in the affidavit without any authentic proof along with employment exchange card ^{which} was submitted to the respondents which would not come to the rescue of the applicant. Even after relaxation as the statutory rules prescribe the maximum age limit upto 25 years relaxable upto 5 years in the case of SC the applicant does not fall within the age criteria and is not eligible to be accorded regularisation. Furthermore, the applicant is an illiterate and even cannot read and write. In case of regularisation it is the applicant who has the burden to show that she was within the prescribed age limit and fulfil the eligibility criteria laid down under the statutory rules framed under Article 309 of the Constitution of India, which govern the regularisation of the applicant.

Having regard to the reasons recorded I find that the applicant has failed to establish her claim for regularisation and is not eligible for accord of

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regularisation as she does not fulfill the conditions laid down under the statutory rules. The OA is found devoid of any merit and is accordingly dismissed. No costs.

S. Raju

(Shanker Raju)
Member (J)