

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 772/2000

Date of Decision : 3<sup>rd</sup> April 2002

N.S.Wagare \_\_\_\_\_ Applicant  
Shri R.Ramesh \_\_\_\_\_ Advocate for the  
Applicant.

VERSUS

Union of India & Ors. \_\_\_\_\_ Respondents  
Shri V.S.Masurkar \_\_\_\_\_ Advocate for the  
Respondents

CORAM :

The Hon'ble Shri S.L.Jain, Member (J)

- (i) To be referred to the reporter or not ?
- (ii) Whether it needs to be circulated to other Benches of the Tribunal ?
- (iii) Library

*S.L.Jain*  
(S.L.JAIN)  
MEMBER (J)

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.772/2000

Dated this the 3<sup>rd</sup> day of April 2002.

CORAM : Hon'ble Shri S.L.Jain, Member (J)

Nandkishore Sitaram Wagare,  
Casual Sweeper,  
Nariman Point Post Office,  
Nariman Point,  
Mumbai.

...Applicant

By Advocate Shri R.Ramesh

vs.

1. Union of India  
through the Secretary,  
Department of Post,  
Govt.of India,  
Sanchar Bhavan,  
20, Ashoka Road,  
New Delhi.
2. The Chief Postmaster General,  
Mumbai-I, Maharashtra & Goa Circle,  
General Post Office, Mumbai.
3. Senior Superintendent of Post  
Office, Mumbai City South  
Division, Mumbai I,  
Globe Chambers, Opp.V.T.Station,  
D.N.Road, Mumbai.
4. The Director Postal Services,  
Maharashtra Circle,  
General Post Office,  
Mumbai.
5. The Post Master (HSG-1),  
Nariman Point Post Office,  
Mumbai.

...Respondents

By Advocate Shri V.S.Masurkar

*S.M.*

..2/-

O R D E R

{Per : Shri S.L.Jain, Member (J)}

This is an application under Section 19 of the Administrative Tribunals Act, 1985 for the declaration that the oral termination of services of the applicant is bad in law and the applicant is entitled to be continued in the post of Casual Sweeper under Respondent No.4 as before with the direction to the respondents to consider the case of the applicant for regularisation in Group 'D' post against the 'non-test' category vacant post of Sweeper under Respondent No.5.

2. The applicant claims that he joined service as Sweeper in 1993 on daily wages basis @ Rs.50/- per day as outside Sweeper and was paid wages on the days he was actually working. He claims that he has put in more than 200 days working in the year 1993 and 1994 also. His working days for the year 1995 171 days, 1996 - 282 days, 1997 - 251 days, 1998 - 214 days, 1999 -250 days, 2000- 220 days. He was permitted to sign the Muster Roll from 1995 onwards. He was paid @ Rs.80/- per day since 15.8.2000.

3. He represented the matter vide his representation dated 23.12.1996, 27.6.1996, 27.5.1999, 13.11.1998 and 26.5.1999. His representation was forwarded by the Post Master, Nariman Point Post Office Superintendent to Respondent No.3 vide his Memo dated 27.5.1999 (Ex-D). In reply to the same, Respondent No.3 asked Respondent No.5 vide letter dated 5.7.1999 (Ex-C) to furnish

SLA / ..3/-

details of working of the applicant which was replied by Respondent No.5 vide letter dated 20.7.1999 (Ex-E). The applicant was supplied with Identity Card by the Department. The applicant was orally asked on or about 20.9.2000 not to come for duty.

4. The Respondents No.1 & 2 filed the reply stating that whenever the incumbents of the post of Sweeper or Farash was/were on leave at Nariman Point Post Office, the applicant might have worked for one or two hours in intermittent periods and was paid lumpsum wages according to the quantity and nature of work done which was not on full time or part time basis, remuneration was paid at a lumpsum rate only and not on hourly basis. He was not engaged against any regular vacancy. No appointment orders were issued. There is no record to show that he was working continuously or what duration he was employed. He was paid coolie charges on a single receipt, whenever engaged. In para 9 of the written statement it is stated that there is no record to show the correct number of days he had actually worked in any year.

5. The perusal of the reply of the respondents clearly suggests that the reply is evasive one. On perusal of Exhibit-'E' letter dated 20.7.1999 in reply to letter dated 5.7.1999, the Sub Post Master (HSG), Nariman Point Office Mumbai has given the working days of the applicant along with the mode of payment, i.e. wages bills (OA.page 20). On perusal of the

same, apparently it appears that the applicant has worked more than 240 days in the year 1996 and 1997 and was paid @ Rs.50/- per day. In such circumstances, the evasive reply of the respondents regarding working days of the applicant is worth blaming.

6. In the result, OA. is disposed of with the direction that the Respondent No.3 either himself or by an officer authorised by him to enquire into the matter on the basis of the record which is available - particularly in respect of working days of the applicant commencing from the year 1993 till 20.9.2000, the amount paid to him for each days working, keeping in view the nature of the applicant's engagement, what is payable to casual labour - Full day/Part time and then decide whether applicant is entitled to any consideration as temporary status/ regularisation etc. in accordance with extent Rules and instructions on the subject within a period of three months from the date of receipt of the copy of the order with a speaking order with a copy to the applicant. If the applicant has still any grievance, he can approach the Tribunal as per law. No order as to costs.

*P.C. Jain*  
(S.L.JAIN)  
MEMBER (J)

mrj.