

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD  
(Under Section 19 of the Act of 13 of 1985)

O.A.No. 58 of 1990.

Between:-

M. Abbas Ali Khan,  
S/o. Sri Jaffar Khan,  
aged about 26 years,  
Adoni, Kurnool Dt.

.. Applicant

AND

1. The Collector of Central  
Excise and Customs,  
C.R. Building, L.B. Stadium,  
Basheerbagh, Hyderabad.
2. The Superintendent of Central  
Excise, Adoni Range,  
Kurnool District.

.. Respondents

Details of application:

1) Particulars of the Applicant:

- |      |   |   |   |
|------|---|---|---|
| i)   | Name of the Applicant                       | : | M. Abbas Ali Khan,  |
| ii)  | Name of the Father                          | : | Jaffar Khan   |
| iii) | Designation and Office<br>in which employed | : | Not applicable  |
| iv)  | Address for service of<br>all Notices:      |   | Ms. G. Bikshapathy,<br>G. vidyasagar,<br>V. Vishwanatham &<br>N. Vinesh Raj.<br><br>Advocates, Race Course<br>Road, Old Malakpet,<br>Hyderabad. |

2. Particulars of the Respondents

- |      |  |    |  |
|------|--|----|--|
| 1)   | Name and / or designation<br>of the Respondents: | 1) | The Collector of<br>Central Excise and Customs<br>C.R. Building, L.B.<br>Stadium, Basheerbagh,<br>Hyderabad. |
|      |  | 2) | The Superintendent of<br>Central Excise, Adoni<br>Range, Kurnool District.                                   |
| ii)  | Office Address of the<br>Respondents:            |    | Same as mentioned in<br>2(1) above.  |
| iii) | Address for service of<br>all notices:           |    | Same as mentioned in<br>2(1) above.  |

3. Particulars of the order against which application is made:

The Application is filed challenging the termination of services of the Applicant <sup>Orally L.G.</sup> with effect from 1-4-1989 and consequently seeking reinstatement and absorption as ~~Sweeper~~ <sup>L.G.</sup> Seepoy.

4. Jurisdiction of the Tribunal:

The Applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal <sup>under Section 14 of the Act 13 of 1985 L.G.</sup>

5. Limitation:

The Applicant further declares that the application is within the limitation prescribed in Section 21 of the Administrative Tribunals Act 1985.

6. Facts of the case:

The facts of the case are given below:

The Applicant submits that he was appointed as Sweeper-cum-Water Carrier under the 2nd Respondent with effect from 1-2-1984. He was being paid a sum of Rs.45/- per month. The Applicant has been working continuously without any break. While the matter stood thus, his services were terminated from 1-4-1989 without giving any reasons. In his place, another outsider has been appointed as Sweeper-cum-Water Carrier.

X. The Applicant submits that there are vacant posts in the category of <sup>L.G.</sup> Seepoy at Adoni. Having come to know, the Applicant made an application in September 1987 to the 1st Respondent through proper channel. The 2nd Respondent was supposed to forward the said application for consideration of the 1st

Respondent but no action was taken. The Applicant submits that he studied upto 10th Class and he is entitled to be appointed as <sup>the</sup> Seapoy in accordance with the rules of the Central Government. The Post has not been filled up so far and the Respondents are taking steps to recruit outsiders for the post of <sup>c.y.</sup> Seapoy.

The Applicant submits that as per the instructions issued by Government of India from time to time, the Casual Labour engaged in the establishment should also be considered for the suitable post if they possess the requisite qualifications. With regard to the age, number of years put in by them in the establishment should be given credit to while competing the minimum age limits. Therefore, the Applicant is fully eligible for being considered for appointment and absorption to the post of <sup>c.y.</sup> Seapoy under the 2nd Respondent. Though the Applicant made representations in this regard, his case has not been considered. He is being kept unemployed from 1-4-1989. Under these circumstances, the Applicant is constrained to file this Application for necessary relief. The action of the Respondents is wholly illegal and arbitrary.

7. Relief:-

In view of the facts and circumstances explained in para 6, it is prayed that the Hon'ble Tribunal may be pleased to set aside the action of the Respondents in terminating the services with effect from 1-4-1989 and consequently reinstate the Applicant into service and absorb him in the post of <sup>c.y.</sup> seapoy.

GROUND:

- i) The action of the Respondents in terminating the services of the Applicant from 1-4-1989 is illegal and arbitrary.
- ii) The action of the Respondents in not appointing the Applicant as <sup>u.y.</sup> Se~~xy~~py is illegal and arbitrary and violative of Articles 14 and 16 of the Constitution of India.
- iii) The impugned action is also violative of Article 21 of the Constitution of India.
- iv) As per the Ministry of Home Affairs memo dated 12-2-1969, the casual employee is eligible for the post of <sup>u.y.</sup> Se~~xy~~py if he has put in 240 days in an year for two consecutive years. Since the Petitioner has completed nearly five years of service, he is entitled to be considered for appointment as <sup>u.y.</sup> Se~~xy~~py.

8. Interim Prayer:

Pending disposal of the O.A., the Hon'ble Tribunal may be pleased to direct the Respondents to consider the case of the Applicant for appointment to the post of <sup>u.y.</sup> Se~~xy~~py.

9. Details of remedies exhausted:

The Applicant submitted representations and for considering his case for appointment ~~to~~ the same was forwarded to the 1st Respondent by the 2nd Respondent but no action was taken.

10- Matter not pending with any other Court etc:

The Applicant further declares that the matter regarding which this Application is made is not pending before any Court of Law or any other Authority or any other bench of the Tribunal.

11. Particulars of Bank Draft, Postal Order in respect of the Application fee.

1. Number of Indian Postal Order: DD 6 267438.
2. Name of the Issuing Post Office: Seifa.
3. Date of Issue of postal order: 19-1-90.
4. Post Office at which payable. Seifa.

12. Details of Index:

An Index containing the details of the documents relied upon is enclosed.

13. List of Enclosures:

1. Postal Order representing the Application fee;
2. Vakalat;
3. Material papers relied upon.
4. Empty file size envelope duly noting the address of the Respondents.

*Qasbi*  
Counsel for Applicant.

Applicant.

Verification.

I, M. Abbas Ali Khan, S/o. M. Jaffar Khan, aged about 26 years, Applicant herein resident of Adoni, Kurnool District do hereby verify that the contents from 1 to 13 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Hyderabad,

Dt. 16-1-1990.

Applicant.