

ANNEXURE - I

List of papers in Original Application No. 233/94

Sl. No. of Papers	Date of Papers or Date of Filing	Description of Papers.
6		

Part - I

Original Judgement

O.A & Material Papers

Counter

Reply Counter

PART - I, PART -- II, PART --- III

Destroyed.

FORM NO. 21

(See Rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD Bench

DA/ ~~14~~ / ~~10~~ / ~~1996~~ / ~~233~~ of 1996

.. Mr. Ahmed Applicant(s)

VERSUS

The Flag Officer, C-in-C, Respondent(s)
for SO (Civ), HQ, E NC, USKP & Azor

INDEX SHEET

Serial No.	Description of Documents	Page
	Docket Orders	
	objection sheet	182
	Interim Orders	79
	counter Affidavit	20 to 25
	Orders in MA(s)	
	Orders in (Final Orders)	26 to 30
	26-3-97	

Certified that the file is complete
in all respects.

22/10/97
Signature of
Dealing Hand
(In Record Section).

Signature of S.O.

OA-233/94

DATE	OFFICE NOTE	ORDERS
22.3.94 23.3.94	Notice sent to RRs in the by RPAD.	None for the applicant. Issue notice to the respondents and list this OA for admission on 14-4-94.
	R1-sd R2-sd	
	13/4/94	
15.4.94		None for the applicant. Adjoined to T.G. au. Reply in the near time.
8-6-94		Admit. Post it for orders on 11-7-94. Reply in the meanwhile.
8.12.94.	Counter filed by Mr. NV Raghav Reddy Admission on 5/12/94.	
26.3.97		Mr. K. Sudhakar Reddy for the applicant and Mr. N.V. Raghav Reddy for the respondents.
		The OA is disposed of as per order on separate sheets.

P-11
8/6

KSM

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

•A.No./T.A.No. 233 1994.

Md. Ashraf

Applicants (S)

VERSUS

Ten flag officer Command in Chief

Respondent: (S)

for (S) (M), H.A. N.E. Command, V. palam and another

Date

Office Note

Orders

24/2/94

Dr

Post on 28/2/94.
HTCR
M(J)
HTCR
M(A)
By order
28/2/94

28.2.94

At the request of
the applicant's counsel
adjourned to 1.3.94.

HTCR
M(J)

HTCR
M(A)

By order

28/2/94

1-3-94

None for the
applicant adjourned
to 7-3-94.

HTCR
M(J)

HABG
M(A)

28/2

11-3-94

Post on 22-3-94.

HABG
M(A)

HABG
M(A)

CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH HYDERABAD.

ORIGINAL APPLICATION No. 233 OF 1994

Shri md. Ahmud

Applicant(s)

Versus

Flag Officer, C-in-C; HQ. F.V. Command, Mang
L. another

Respondent(s)

This Application has been submitted to the Tribunal
by Mr K. Jadhav Reddy Advocate under section 19 of
the Administrative Tribunals Act. 1985 and same has been scrutinised with
reference to the points mentioned in check list in the light of the
provisions contained in the Administrative Tribunal (Procedure) Rules,
1987.

The application is in order and may be listed for admission on -294

Scrutiny Officer.

21/12
Deputy Registrar(J) ee

11. Have legible copies of the annexures duly attested been filed? 9
12. Has the Index of documents been filed and pagination done properly? 4
13. Has the applicant exhausted all available remedies? 4
14. Has the declaration as required by item 7 of Form I been made? 4
15. Have required number of envelopes (file size) bearing full address of the respondents been filed? 4
16. (a) Whether the reliefs sought for, arise out of single cause of action? 4
(b) Whether any interim relief is prayed for? 4
17. In case an M.A. for condonation of delay is filed, is it supported by an affidavit of the applicant? -
18. Whether this case can be heard by single Bench? no
19. Any other point? -
20. Result of the Scrutiny with initial of the scrutiny Clerk. ~~me~~

Section Officer *[Signature]*

Deputy Registrar

REGISTRAR

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

Diary No.

Report on the scrutiny of Application

Presented by Mr. K. Sudhakar Reddy Date of Presentation.....

Applicant(s) Mr. Ahmed

Respondent(s) Flag Officer C-in-C Enclomment & other

Nature of grievance Termination

No. of applicants 1 No. of respondents 2

CLASSIFICATION

Subject..... (No.)) Department (No....)

1. Is the application in the proper form?
(Three complete sets in paper books form in two compilations) 4
2. Whether name, description and address of all the parties been furnished in the cause title? 4
3. (a) Has the application been duly signed and verified? 4
(b) Have the copies been duly signed? 4
(c) Have sufficient number of copies of the application been filed? 4
4. Whether all the necessary parties are impleaded? 4
5. Whether English translation of documents in a language other than English or Hindi been filed? 4
6. Is the application in time?
(See Section 21) 4
7. Has the Vakalathnama/Memo of appearance/authorisation been filed? 4
8. Is the application maintainable?
(U/s 2, 14, 18 or U.R. 8 etc.) 4
9. Is the application accompanied by IPO/DD for Rs.50/-? 4
10. Has the impugned orders original/duly attested legible copy been filed? 4

Contd.....

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

INDEX SHEET

O.A.No. 233 of 1996

CAUSE TITLE Md. Ahmed

VERSUS

The Flag Officer Command in-Chief. for S. (ern)
Hav. N.E.C. V. Patnam as under

Sl. No.	Description of documents.	page No.
1.	Original Application	1 to 6
2.	MATERIAL PAPERS.	7 to 14.
3.	Vakalat	1
4.	Objection sheet.	1
5.	Spare Copies <u>2</u>	
6.	Covers. <u>2</u>	

7. counter affidavit filed

My to treat the Bench as continued in force from the date of its constitution as Bench as shown by continuing the duty of the Bench.

Bench Case **BENCH CASE**

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : ADDITIONAL BENCH

AT HYDERABAD.

Defence
DEFENCE

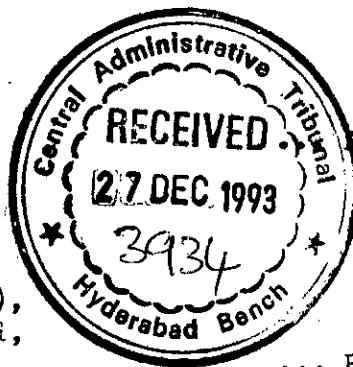
O.A. No. 233 of 1993

Between :

MD. AHMED,

and

The Flag Officer,
Commanding -in-Chief, for SO(Civ),
Headquarters Naval Eastern Command,
Visakhapatnam and Others.



Applicant

... Respondents.

MATERIAL INDEX

S.No.	Description of the document	page Nos.
1.	Original Application.	1 to 6
2.	Letter No. HI/0011 dated 19 Oct 1993 of the Controllorate of Naval Armament Inspection, Kanchanbagh, Hyderabad - discontinued service.	7
3.	Letter No. HI/0011 dt. Oct 23 89 of the Controllorate of Armament Inspection to Flag Officer Commanding-in-Chief-Visakhapatnam.	8
4.	Letter No. HI/0011 dt. 9 May 89 of the Controllorate Na val Armanent, Hyderabad to the applicant Offer of Appointment.	9
5.	Lr No. HI/0011 dt. 29 July 91 of the Naval Armanent Hyderabad, to applicant- Offer of Appointment.	10
6.	Lr. No. HI/0011 dt. 20 Oct 93 of the Naval Armanent Hyderabad to the applicant- offer of labourer.	11
7.	Representation by the applicant dt. 21-10-1993	12
8.	Representation by the applicant dt. 16-11-1993.	13
9.	Pay Slip for Jan 93 - issued by the Naval Armament for the month of Jan 93.	14

Certified that the above documents are true copies of the originals.

Station : Hyderabad.

Date : 23 -12-1993

Counsel for Applicant.

RECEIVED COPY
N.R. Devaraj
Sr. CGSC
Allotted to:

(4)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : ADDITIONAL BENCH

AT HYDERABAD.

O.A.No. 233 of 1993

Between :

MD. AHMED.

... Applicant.

and

The Flag Officer,
Commanding-in-Chief, for SO (Civ),
Headquarters Naval Eastern Command
Visakhapatnam and Others.

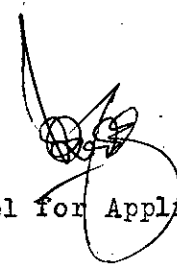
... Respondents.

CHRONOLOGICAL EVENTS

Date	Subject in brief.	Page Nos.
9-5-1989	Applicant appointed as Casual Labourer.	2
7-11-1989	Applicant again engaged as Casual Labourer.	2
1-8-1991	Applicant again engaged as Unskilled Labourer	2
19-10-1993	Applicant discontinued in service.	2
Oct 1989	2nd respondent requested xxxx to 1st respondent to accord sanction.	3
1981	Supreme Court judgement reported in AIR-1981-SC-1253.	3

Station : Hyderabad.

Date : 23-12-1993.


Counsel for Applicant.

3

APPLICATION UNDER SECTION 19 OF THE CENTRAL ADMINISTRATIVE
TRIBUNAL ACT

Date of Filing :

or

Date of Receipt :

By Post :

Registration :

Signature :

Registrar :

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : ADMINISTRATIVE BENCH
AT HYDERABAD.

O. A. No. 233 of 1994

Between :

Md. AHMED, S/o Hasan Ali
Age about : 26 years,
Occ : Unskilled Labourer
Office of the Naval Armament
Inspection, Kanchanbagh (PO)
Hyderabad- 500 258.

... Applicant.

Versus

1. The Flag Officer,
Commanding-in-Chief,
for SO(Civ), Headquarters Eastern Command, *Naval*
Visakhapatnam.
2. Controller, Controllerate of
Naval Armament Inspection,
Kanchanbagh (PO)
Hyderabad- 500258.

... Respondents.

DETAILS OF APPLICATION

1. Particulars of Application :

- | | | |
|------|---|---|
| i) | Name of Applicant : | MD. AHMED |
| ii) | Description and office
in which employed : | Unskilled Labourer,
Controllerate of Naval
Armament Inspection,
Kanchanbagh (PO)
Hyderabad-258. |
| iii) | Office Address : | Controller, Controllerate
Naval Armament Inspection
Kanchanbagh (PO), Hyderabad |
| iv) | Address for service
of all notices : | Mr. K. Sudhakar Reddy,
Advocate, H.No. 2-2-1132
New Nallakunta,
Hyderabad-44. |

6

2. Particulars of the Respondents :

As mentioned in the cause title.

- i) Name and designation of the respondents : -do-
- ii) Office address of the respondents : -do-
- iii) Address for service of all notices : -do-

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

- i) Date : 19 October 1993.
- ii) Passed by : Controller, Controilerate of Naval Armament Inspection, Kanchanbagh (PO), Hyderabad.
- iii) Subject in brief : ~~To set aside the termination order dated 19 Oct 93 passed by the 2nd respondent.~~ To Regularise the Serv

4. Jurisdiction of the Tribunal :

The applicant declares that the subject matter is within the jurisdiction of the Tribunal under section 14 of the Act.

5. Limitation :

The applicant further declares that the application ~~is~~ is within the limitation prescribed in Section 21 of the Administrative Tribunal Act, 1985.

6. FACTS OF THE CASE :

(i) Applicant herein was initially engaged as Casual Labourer in 87 MA ON 'NERRICK RATE' of Pay; in 1989 his name was sponsored by Employment Exchange, and in pursuance of the interview held on 31 March 1989, for a period of 89 days, ~~an~~ an offer of appointment was issued by the respondents dated 9 May 89 (copy enclosed) and the post carried the basic pay of Rs. 750/- plus other allowances as admissible to the Civilians of Navy. After giving a break, the applicant herein is engaged again on 7 Nov 1989 to 1 August 1991. Again Applicant herein was given an offer of appointment for the post of Unskilled Labourer from 1 Aug 1991 to 30 June 1992. Thereafter, the respondent authorities continued the applicant herein upto 19 Oct 1993 that is more than 240 days. Applicant herein is appointed against a resultant vacancy of continuous casual USL

and applicant continued in the post without any break and he was being paid basic pay Rs. 750/- D.A., Rs. 785/- HRA Rs. 150/- CCA Rs. 30/- and they debited Rs. 15/- towards the CCEGIS.

(ii) It is humbly submitted that as such the respondent authorities that is Senior Inspector of Naval Armament, Naval Armament Inspection, Kanchanbagh, Hyderabad, through his letter No. HI/0011 dated : Oct 89 requested the Flag Officer Commanding-in-Chief, ENC, Visakhapatnam, for accord the sanction to the above post w.e.f. 06 November 1989 and it is further stated that the applicant herein was appointed against a resultant vacancy of continuous casual 'USL' sanctioned vide HQ ENC letter No. CE/2559/NAI(E) dated 04 November 1988. But the 2nd respondent maintaining silence over the matter and till to-day not accorded sanction to the post hence the 2nd respondent terminated the applicant service. Recently applicant herein was terminated on 19 Oct 93 and again he is reengaged for 89 days by office order No dated and at present applicant herein is continuing. Respondent authorities are according to their whims and fancies re-engaging and terminating the services of the applicant by creating artificial breakes to defeat applicants right for regularisation. This Hon'ble Tribunal and also various benches of the Central Administrative Tribunal held that the artificial breakes must be taken into account for regularising the services of a contingen worker.

Hence, the applicant herein is entitled for his services regularised as 'Unskilled labourer' from the date of his initial appointments with all consequential benefits.

Applicant herein is continuously working since 1987 except for artificial breakes and acquired the temporary status and entitled for protection under Temporary Service Rules. Applicant services were not being regularised for not granting sanction for the existing vacancy. The action of the respondent is clearly illegal, arbitrary and violation of the applicants rights guaranteed under Article 14 and 16 of the Constitution of India.

Applicant as per case law reported in 1991-15-ATC-625 shall be ~~reinstated and shall be~~ treated as having continued in service without any break.

7. RELIEF(S) SOUGHT :

Main Prayer : Hence, in the interest of justice, it is prayed that the Hon'ble Tribunal may be pleased to,

- (i) to treat him as continued in service from the date of his initial engagement as Casual Labourer that is May 1987 by condoning all the artificial breaks and to regularise in the post of Unskilled Labourer, and
- (ii) to pay all the arrears and pass such order or orders as deem fit and proper by this Hon'ble Tribunal.

8. Interim Prayer :

The applicant prays that this Hon'ble Tribunal may be pleased to direct the respondents herein to treat the applicants service as continue service as 'USL' pending disposal of the O.A.

9. Details of the remedies exhausted : The applicant further submitted a representation dated 21-10-93.

10. Matters not pending with any other Court :

The applicant further declares that the matter regarding which this application is made is not pending before any court of law and any other authority or any other Bench of Tribunal.

11. Particulars of Postal Order in respect of the application fees :

- i) Number of Indian Postal Order :
- ii) Name of Issuing Post Office :
- iii) Date of Issue of Postal Order :
- iv) Post office at which payable :


12. Details of Index : An index in duplicate containing the details of the documents to be relied upon is enclosed.
13. List of enclosures.

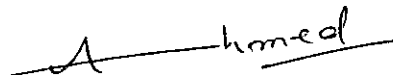


Signature of Applicant.

VERIFICATION

I, MD. Ahmed son of Hasan Ali, aged about : 26 years
Occ: Unskilled Labourer, Controllerate of Naval Armament Inspection,
Kanchanbagh, Hyderabad- 258, do hereby declares and verify that the
contents in para 1 to 13 are true to my knowledge and belief and
believe the same to be true and I have not suppressed any material
facts.


Counsel for Applicant.



Signature of Applicant.

Place : Hyderabad.

Date :

To

The Registrar, Central Administrative Tribunal,
Hyderabad Bench, Hyderabad.

Telephone : 239589

Naval Armament Inspectorate
Kanchanbagh (PO)
Hyderabad - 500 258

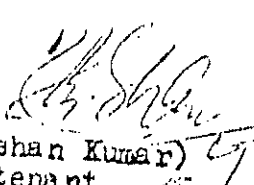
MI/OC11

// Oct 89

The Flag Officer Commanding-in-Chief
(for SO(Civ.))
Headquarters Eastern Naval Command
Visakhapatnam

SANCTION FOR TEMPORARY EMPLOYMENT EXTENSION
OF SERVICES IN RESPECT OF SRI MD. AHMED
UNSKILLED LABOURER

1. Refer to HQ ENC letter No. CE/2567 dated 01 Aug 89.
2. The sanction for employment of the above individual accorded vide HQ ENC letter under reference will expire on 05 Nov 89.
3. It is requested that sanction may please be accorded for the above post w.e.f. 06 Nov 89. The above individual was appointed against a resultant vacancy of continuous casual USL sanctioned vide HQ ENC letter CE/2559/NAI(H) dated 04 Nov 88.


(Krishan Kumar)
Lieutenant
Naval Armament Inspecting Officer
for Senior Inspector of Naval Armament



Telephone : 239589

Quoting No. HI/co11

-9- 12

Naval Armament Inspectorate,
Kanchanbagh
Hyderabad - 500 258
09 May 89

Shri. Md Ahmed.
18-7-425/41
Mirjuma Talab Katta
Near Rly. Bridge
Hyderabad.

OFFER OF APPOINTMENT

With reference to your interview for the post of appointment Unskilled Labourer held on 31 Mar 89, you are hereby offered an appointment to the post of Unskilled Labourer with effect from 10 May 89 on casual basis for a period of 89 days based on the following terms and conditions :

(a) The post carries basic pay of Rs 750/- plus other allowances as admissible to the civilian in the Navy as specifically made applicable by the Government to the individual employed under HHS/81 will also paid to you.

(b) Your services are liable to be terminated without notice before expiry of above stated period.

(c) You will not be entitled to any notice pay before retrenchment/discharge.

(d) Your appointment is subject to medical fitness.

(e) You must not have more than one wife living and you have to sign a declaration to this effect.

(f) You will be required to take, an oath/affirmation of allegiance to the Constitution of India.

(g) You will be required to work for the number of hours as may be prescribed and ordered by the head of your department.

2. You are also informed that if any declaration given or information furnished by you proves to be false or if you are found to have wilfully suppressed any material information, you will be liable to removal from service and or such other action as Government deem necessary".

3. If the above terms and conditions of service are acceptable you should report to the Senior Inspector of Naval Armament, Naval Armament Inspectorate, Hyderabad for duty on or before 12xmgx2 09 May 89 failing which the offer made is liable to be cancelled.

Authority : HQ ENC(V) Lr No CE/2559/NAI(B)
dated 8 May 89.

8d/-
(Deepak Taneja)
Commander
Senior Inspector of Naval
Armament.

Reply to

The Flg Afsar Kaman-in-chief
Mukhayalaya
Visakhapatnam.

// COPY //

Telephone : 239589

Naval Armament Inspectorate
Kandamangudi (PO)
Hyderabad - 500 258

Order No. I/6011

May 89

Mr. Md. Asim
135/11
Mina, Talab Katta
Near Aly. bridge
Hyderabad

OFFER OF EMPLOYMENT

With reference to your interview for the post of Unskilled Labourer held on 11.5.89, you are hereby offered an appointment to the post of Unskilled Labourer with effect from 10 May 89 on casual basis for a period of 60 days based on the following terms and conditions :

- (a) The monthly salary of Rs. 750/- plus dearness allowance of Rs. 100/- to the civil servant's pay scale of Rs. 100/- and gratuity of Rs. 100/- to the individual employee of Rs. 100/- to be paid to you.
- (b) You will be liable to be engaged for a period of 60 days.
- (c) You will not be entitled to any notice pay.
- (d) You will be required to maintain good physical fitness.
- (e) You must not be engaged in any other work during the period of your engagement and must be available for duty at all times.
- (f) You will be required to take part in all the activities of the organization.
- (g) You will be required to work for the number of hours as specified in the offer letter.



Telephone : 239589

Naval Armament Inspectorate
Kanchanbagh (PO)
Hyderabad - 500 258

Quoting No.HI/0011

29 Jul 91

Sri Md.Ahmed
18-7-425/11
Mirjumla Talab Katta
Near Rly. bridge
Hyderabad

OFFER OF APPOINTMENT

With reference to your interview for the post of Unskilled Labourer held on 10 Sep-90, you are hereby offered an appointment to the post of Unskilled Labourer with effect from 01 Aug 91 to 30 Jun 92 on Continuous Casual basis, based on the following conditions:


- (a) The post carried basic pay of Rs.750/- plus other allowances as admissible to the civilian of the Navy as specifically made applicable by the Government to the individuals employed under N.I.I.S./81 will also be paid to you.
- (b) Your services are also liable to be terminated at any time without notice.
- (c) You will not be entitled to any notice pay before retrenchment/discharge.
- (d) Your appointment is subject to medical fitness and verification of Character and antecedents.
- (e) You must not have more than one wife living and you have to sign a declaration to this effect.
- (f) You will be required to take/make an oath/affirmation of allegiance to the Constitution of India.
- (g) You will be required to work for the number of hours as may be prescribed and Ordered by the head of your department.

2. You are also informed that if any declaration given or information furnished by you proves to be false or if you are found to have willfully suppressed any material information, you will be liable to removal from service and or such other action as "Government deem necessary".

Contd..2..

3. If the above terms and conditions of service are acceptable, you should report to The Senior Inspector of Naval Armament, Naval Armament Inspectorate, Hyderabad for duty on or before 12 Aug 91 failing which the offer made is liable to be cancelled.

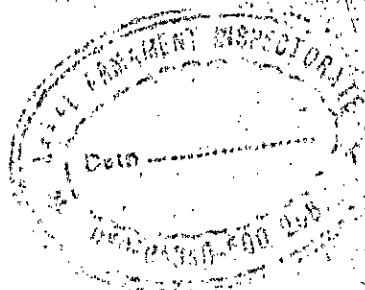
(Authy. HQ ENC(V) Letter No.CE/2559/NAI(H)
dated 22 Jul 91)

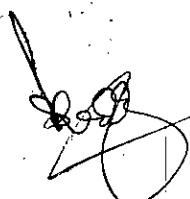

(Deepak Taneja)
Commander
Senior Inspector of Naval Armament

Copy to :

The Flag Afsar Kaman-in-Chief
Chayulaya
Major Maunon Man
Vandapatnam

CHAM - 530 009





11- 15

REGISTERED POST

Telephone : 249595

Controllerate of
Naval Armament Inspection
Kanchanbagh (PO)
Hyderabad - 500 258

HI/OC11

20 Oct 93

Sri Md Ahmed
M.No.18-7-425/11
Mirjuma Talabkatta
Near to Railway Bridge
Bhavani Nagar
Hyderabad - 500 002

It is intimated that requirement exists with immediate effect to employ a labourer on Merrick Rate of Pay in this office to meet contingency requirements for a period of 20 working days. If you are interested to work under merrick rate employment for the above period, you are advised to report this office latest by 25 Oct 93, failing which the offer would be extended to the other candidate.

(SK Patel)
Lieutenant Commander
Deputy Controller (HRM)
for Controller

20

To

The Controller,
Controllerate of
General Armament Inspection
Mumbai, Maharashtra,
Mumbai-500258.

Dated.21-10-1993.

Respected Sir,

Ref:-Your Order No.HI/0011 dated 19th Oct.1993.

With reference to the order cited,I humbly submit the following few lines for your kind consideration and favorable orders.

That my services have been discontinued with immediate effect from PM 18th Oct.1993.

In this connection I submit that I was initially appointed on NERRICK rate w.e.f. May 87 and thereafter as TY Casual USL on 89 days basis w.e.f. 10 May 89 vide HQBNC Lr. No.CE/2559/NAI(H) dated 8th May 1989,prior to my appointment as continuous casual USL w.e.f. 01 August 1991 vide HQ BNC/V) Letter No.CE/2559/NAI(H).

I further submit that despite issue of Telex No.MR 045 of 31 Dec.1992. My appointment I had been working from before the exit off date.

Sir,you are fully aware that in these days of hardships the termination of my services is a blow to my family consisting of old age parents,minor sisters and brothers who are fully dependant on me,and will be put to suffer and to starvation.

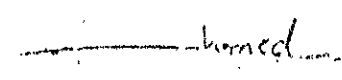
Sir,due to continuous satisfactory service of over 2 years I am eligible for regularisation but the termination is ordered,which needs kind consideration.

I,therefore request your goodself kindly consider my case sympathetically and withdraw the above orders and to allow me to continue my service,for which act of kindness I shall remain ever grateful to you.

Thanking you,

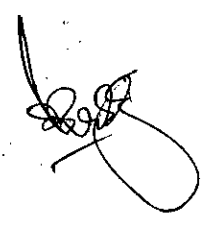
Yours faithfully,

Encl:Xerox copy Controller
order No.HI/0011 .


(MOHD.AHMED.).

127-025/71,
Karnan, Visakhapatnam,
Mumbai-500002.

The Flag Officer,Karnan-In-Chief,Mukhayalaya,
Pony Housen. Karnan,Visakhapatnam,
536(P & A).



To,

The Flag Officer Commanding Chief
for C.S.O. (P & A)..
Head Quarters Eastern Naval Command,
Naval Base,
Visakhapatnam - 530 014.

With reference to my representation dated 21-10-93
Addressed to Controller, CNAI (H) and copy to FOC - in C(V) I
humbly submit the following fewlines for your kind consideration
and favourable orders :-

1. My services have been discontinued with immediate effect from PM 18th Oct, 1993.
2. In this connection I submit that I was initially appointed barrick rate w.e.f. May, '87 and there after as temporary Casual on 89 days basis w.e.f. 10, May, '89 vide HQENC letter No. CE/2529 (NAI(H)) dated 8th May, 1989 prior to my appointment as Continuous Casual USL w.e.f. 01, Aug, 1991 vide HQENC(V) letter No. CE/2559/NAI (H).
3. I further submit that Head Quarters Eastern Naval Command Vide Telex No. MR 045 of 31 Dec, '92 had directed the termination of USL recruited on or after 31 Dec, '89, and as such I continued to be in service till issue of letter by CNAI (H) discontinuing my services.
4. Sir you are fully aware that in those days of hardships the termination of my services is a blow to my family consisting of my old age parents, Minor Sisters and Brothers who are fully dependent on me and will be put to suffering and starvation.
5. Sir due to continuous satisfactory service of over 2 years I was hoping to be based on my command seniority. Instead ~~xxx~~ the termination is ordered, which needs kind consideration.
6. I therefore request you goodself to kindly consider my Case sympathetically and allow me to continue my service for which act of kindness I shall remain ever grateful to you.

Your's faithfully,

A. Ahmed
(MOHD. AHMED)

H.NO.18-7-425/11,
Mir Jumla Talab Katta,
BhavaniNagar, Hyd.2.

Copy to :-
Controller
1. (C.N.A.I(H))

With a request that I may be permitted
to continue as Continuous Casual USL.

2. The Controller, Controllarate of Naval Armament Inspection
Kanchan Bagh, Hyderabad.

NAVAL ARMAMENT INSPECTORATE
HYDERABAD

Pay Slip for 70m 93 Sl. No. 1

Name Hd Ahmed

Designation:V.S.C....

Salary	Rs.	Pes.
Basic Pay	...	750.00
DA	...	623.00
HRA	...	150.00
CCA	...	30.00
Misc.	...	

Total 1553.00

A. Debits

- G.P Fund Sub.
- R Ref.
- PLI
- C.G.H.S CGC/93 150.00
- Festival Advance...
- Motor Cycle Adv....
- House Bldg. Adv.....
- Leave Adjustment...
- AAO CDA(N) Recoveries..

150.00

B. Office Recoveries 1538.00
agreed by individuals

- HD Transport -
- LW Fund -
- Co-op. Cr. Society-
- Miscellaneous A/c 223.00

Total Recoveries 223.00

Net payable - 1315.00

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

Date : 27.12.93.

To O.A. Regd. No. 3834/93
Mr. K. Sudhakar Reddy,
Advocate.

Sir,
the date of issue of this letter; failing which your application will not be registered and action under Rule 5 (4) will follow.

- 1. Number particulars of the impugned order should be furnished in Para-3.
- 2. Copy of the impugned order should be attached to the impugned order.

3.
4.
5.
6.
7.
8.
9.
10.
11.
12.
13.
14.
15.

Operation completed
BGR

Mt. 5-0A 3834/93.

Previous objections should be
complied with properly.

Ar. 12/94
Dn 7/1/94

Deputy Registrar (Judl)

Operation completed
BGR

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH

AT HYDERABAD.

O.A. 233 OF 1994.

BETWEEN:

Md. Ahmed

...

...

Applicant.

and

The Flag Officer Commanding-in-Chief
for SO (CIV), Headquarters, Eastern
Naval Command, Visakhapatnam & Another ...

Respondents.

COUNTER AFFIDAVIT

I, CMDE RP PREM KUMAR S/o LATE SHRI RAJAH
PALANIANDY, Hindu, Aged: 49 years, Occu: Government
Service, R/o MADRAS, do hereby solemnly and sincerely
affirm and state on oath as follows:

1. I am the Controller and the 2nd respondent herein,
as such, am well acquainted with the facts of the case.
I am authorised to give this affidavit on behalf of both
the respondents.
2. I have read the original application filed by the
above named applicant and I deny the several material
allegations made therein except those that are specifically
admitted herein.
3. Before traversing in detail the several material
allegations, averments and contentions made therein, I
beg to submit as follows:
4. It is submitted that the applicant officially
engaged as Casual Labourer on nerrick rate of pay in
May, 1987. Thereafter, he was engaged as Casual Labourer
on nerrick rate of pay as and when such requirement arose
in this organisation, after obtaining sanction from the
administration authority.

[Signature]
(S.K. PATEL)
Lt Cdr
Deputy Controller
Gen. Controller

[Signature]
.....2

5. It is submitted that there no vacancy of unskilled labour in the complement sanctioned to this office by Government of India.


6. In reply to paras 1 to 5 - Needs no comments.

7. In reply to para 6 of the application, the
correspondence is as follows:

(a) Information submitted is factual. Complete details have been given in the preamble of the case (Appendix - 'A').

(b) There is no vacancy of USL in the Complement sanctioned to this office by Government of India. This office had requested the Admn. Authority for according sanction of one temporary casual USL post under NI 1/S/81, consequent to transfer of Shri P Srihari, Casual USL to Visakhapatnam, to meet day-to-day requirements. Based on the sanction, interview was conducted on 31 Mar 89 for candidates sponsored by Employment Exchange. Shri Md Ahmed was selected in the interview and offered an appointment for temporary casual USL for 89 days w.e.f. 10 May 89 with basic pay of Rs.750/- plus other allowances as admissible vide HQ ENC letter CE/2559/NAI(HYD), dated 08 May 89. In the offer of appointment, it has been interalia specified that:

- (i) His services are liable to be terminated at any time without notice; and
- (ii) He would not be entitled to any notice/ notice pay before retrenchment/discharge.



(J K PATEL)
Lt Cdr
Deputy Controller
For Controller



J K PATEL

(c) The applicant, having accepted the said terms and conditions, was appointed as a USL purely on casual basis for 89 days w.e.f. 10 May 89 and subject to the conditions laid down in the offer of appointment. The individual's services stood terminated after expiry of the term of each such employment. The applicant was re-employed on 89 days basis from time to time whenever sanction was accorded by the Admn. Authority basing on the requirement of man power. The details of such appointments between 10 May 89 to 31 Jul 91 are placed at Appendix - 'A'.

(d) It can be seen from para 'C' above that each time sanction had been accorded by the Admn. Authority FOC-in-C (East) for the temporary casual post for 89 days as per Appendix 'A'. CNAI(H) letter No.HI/0011, dated 11 Oct 89 (copy enclosed) was addressed to FOC-in-C (East) requesting for sanction beyond 06 Nov 89, for temporary casual USL post held by the applicant as earlier sanction was expiring on 05 Nov 89. In reply to this letter HQ ENC had accorded sanction for temporary casual post w.e.f. 08 Nov 89 to 31 Dec 89 with two days break on 06 & 07 Nov 89 (copy enclosed). Hence the allegation made by the applicant that the 2nd respondent maintaining silence over the matter and till today not accorded sanction to the post is totally baseless and incorrect. The individual had continued to serve as temporary casual USL as mentioned in the Appendix 'A' thereafter.


(e) Due to financial constraints, the casual sanctions were withdrawn by NHQ during the end of 92 because of Government Ban, and therefore, services of all casual USLs serving in this Controllerate were to be terminated w.e.f. 01 Jan 93. However, the applicant's

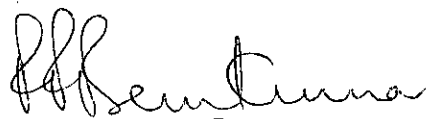

S K PATEL)
Lt Cdr
Deputy Controller
For Controller


.....4

services were continued further after obtaining telephonic concurrence from HQ ENC in anticipation of NHQ sanction, as he had been working as temporary casual USL since 10 May 89 with intermittent breaks as already mentioned in Appendix 'A'. Finally, his services were discontinued w.e.f. PM 18 Oct 93 vide this office letter HI/0011, dated 19 Oct 93 as sanction was not forthcoming vide HQ ENC (1st respondent) letter CE/2001/69, dated 11 Oct 93. Based on the representation dated 21 Oct 93 submitted by the applicant, FOC-in-C (East) sanctioned one vacancy of temporary casual USL post w.e.f. 03 Jan 94 for 89 days and subsequently released one vacancy of continuous casual labourer to this office on receipt of NHQ sanction under NI 1/S/81 vide letter CE/2003(3) dated 06 Apr 94. Based on the same, the applicant has been re-appointed as a Continuous casual USL w.e.f. 04 Apr 94 to 31 Dec 94 vide this office letter HI/0011, dated 28 Apr 94. Further services will be continued as and when NHQ/HQ ENC sanction is received by this office. It can be seen from the above, that this office has acted as per the directive/sanction received from the Naval Headquarters/HQ ENC from time to time as Government sanction does not exist for the post of USL against the complement case of this office. Hence, the allegation of the applicant against the respondents that they are acting according to their whims and fancies is totally baseless and incorrect.

(f) The individual's claim to treat his service continuous since May 87 is incorrect, because he was on nerrick rate of pay i.e., on daily wages and he was appointed as temporary casual USL only w.e.f. 10 May 89 with rate of pay of Rs.750/- and continuous casual USL w.e.f. 01 Aug 91.


(S.K. PATEL)
Lt Cdr
Deputy Controller
For Controller

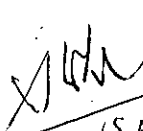

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8. In reply to para 7 - it is submitted that the applicant cannot be regularised as there is no regular vacancy sanctioned to this Controllorate by Government of India at present. Regularisation w.e.f. May 87 is incorrect as the applicant has been appointed as temporary casual USL (89 days basis) only w.e.f. 10 May 89 with rate of pay of Rs.750/- and continuous casual USL w.e.f. 01 Aug 91. He was on merrick rate of pay i.e., on daily wages from time to time since May 87.

It is submitted that the applicant has been paid for the period he had worked as temporary continuous casual USL and no arrears are due to him. As per Government of India, Ministry of Defence dated 31 Jan 91, financial benefits have been withdrawn for the casual employee who have not been regularised in spite of completion of one year of continuous service. Hence, arrears cannot be claimed by the individual.

9. In reply to para 8 - it is submitted that the applicant has already been appointed as continuous casual USL w.e.f. 04 Apr 94 to 31 Dec 94 vide HQ ENC sanction CE/2003(3), dated 06 Apr 94.

In view of the foregoing, it is submitted that the applicant has already been appointed as continuous casual USL w.e.f. 04 Apr 94 at the rate of pay of Rs.750/-. His service cannot be regularised, as there is no Government sanction for the vacancy of USL post in this office. However, his services will continue as casual USL based on the sanctions accorded by NHQ/HQ ENC under NI 1/S/81 from time to time.


(S K PATEL)
Lt Cdr
Deputy Controller
For Controller


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In the C.A.T.

Hyd. Bench

DA 233/94

Counter Affidavit



E
E
8/12/94

Filed by—


N.V. Raghavakreddy
Adm.

may be
5/51

In view of the facts stated above, this Hon'ble Tribunal may be pleased to dismiss the Original Application with costs.

Sworn and signed before me
on this the 17 day of
November 1994 at Hyderabad.

BEFORE ME


(S K PATEL)

Lt Cdr

Deputy Controller

For Controller

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD
R.A./M.A./C.A.No.

II COURT

ORIGINAL APPLICATION NO. 233/94 Old petn.

CERTIFICATE

Certified that no further action is required to be taken
and the case is fit for consignment to the Record Room (Decided).
Dated:

Counter Signed.

Court Officer/Section Officer.

YLKR

Signature of the Dealing Asst.

* * * *

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

OA No.233/94

Date of decision: 26.3.1997

BETWEEN:

Md. Ahmed

.. Applicant

1. The Flag Officer,
Commanding-in-Chief,
for SO (Civ), Headquarters -
Eastern Naval Command,
Visakhapatnam.
2. Controller,
Controllerate of
Naval Armament Inspection,
Kanchanbagh (PO)
HYDERABAD - 500258.

Counsel for the Applicant: K. Sudhakar Reddy

Counsel for the Respondents: Sri N.V. Raghav Reddy

CORAM:

THE HON'BLE SRI R. RANGARAJAN: MEMBER (ADMN.)

THE HON'BLE SRI B.S. JAI PARAMESHWAR: MEMBER (JUDL.)

Joe

[Signature]

ORDER

(Per Hon'ble Sri R. Rangarajan: Member (A))

Heard Sri Sudhakar Reddy for the applicant and Sri N.V. Raghav Reddy for the respondents.

The applicant in this OA was initially engaged as casual labourer on Nerrick rate of pay in May, 1987. ~~Thereafter he was continued with intermittent service~~
By order No. NI/0011 Dt. 19.10.93 (Page-7 of the OA) the applicant was discontinued with effect from 18.10.93.

Against that order he has filed this OA praying for a direction to the respondents to treat him as continued in service from the date of his initial engagement as a casual labourer i.e. from May 87 by condoning all artificial breaks and regularise in the post of unskilled labourer.

It is now stated by the applicant that he has been re-engaged by order Dt. 2nd April, 1994 and from that date onwards he is continuing in service. His pay bill is also enclosed at page-14 to the OA. As per this pay bill it is seen that he has been paid on monthly rates of pay with allowances, ~~he~~ ^{is} ~~was~~ also admitted to the General Provident Fund / GPF No.697850. It is also stated that he has become a member of the CGHS scheme. From the above the applicant submits for all practical purposes he has become a regular employee of the respondents. He further submits that he has put in lot of service till now and his long service should ensure that he is regularly appointed. For this contention he relies on the judgement of the Ernakulam Bench of this Tribunal reported (1994) ~~in~~ ⁱⁿ 27 ATC 500 (P.M. Augustine Vs. Union of India and others). // A reply has been filed in this connection. The learned counsel for the ~~applicant~~ ^{respondent} submits that the applicant has been engaged with the clear instruction that his services will be terminated without notice. However when there is work he has been engaged.

I It is a fact that the applicant has attained some status by virtue of his long service. He has also been given monthly rate of pay and also admitted to the PF scheme.

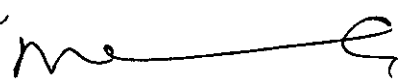
When a casual labourer works for a long time it is but fair *to consider him for* regular absorption in a vacancy that arise in his turn in accordance with the rules. *Justifiable* reason for consideration of the applicant for regularly posting him as ~~an~~ unskilled labourer. However such an appointment can be made only by the respondent organization taking into account the seniority of the applicant and other such factors.

In view of the foregoing, the following direction is given:-

The respondents should consider the case of the applicant herein for regularisation in an unskilled category in accordance with the rules in his turn. However due to unforeseen event if the applicant is retrenched for want of work then the applicant should be re-engaged in preference to freshers from the open market *when the next vacancy arises.*


The OA is ordered accordingly. No costs.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)
26.3.97


(R. RANGARAJAN)
MEMBER (ADMN.)

Date: 26th March, 1997

Dictated in the open court


D.R.J.

..4..

Copy to:

1. The Flag Officer, Commanding in Chief,
for SO(Civ), Head Quarters, Eastern Naval Command,
Visakhapatnam.
2. Kanchanbagh(PD), Hyderabad. of Naval Armament Inspection,
3. One copy to Mr.K.Sudhakara Reddy, Advocate, CAT, Hyderabad.
4. One copy to Mr.N.V.Raghava Reddy, Addl.CGSC, CAT, Hyderabad.
5. One copy to D.R(A), CAT, Hyderabad.
6. One duplicate copy.

YLKR

SPR
28/4/97
(6)

TYPED BY

CHECKED BY

COMPILED BY

APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN: M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR:
M(J)

ORDER/JUDGEMENT

R.A./C.P/M.A.No.

O.A.No. 233/94ⁱⁿ

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

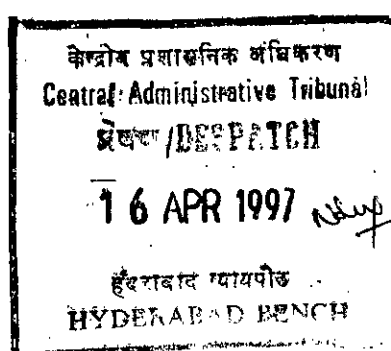
DISMISSED AS WITHDRAWN

ORDERED/REJECTED ✓

NO ORDER AS TO COSTS.

II COURT

YLKR



(Per Hon'ble Sri R. Rangarajan: Member (A))

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

OA No.233/94

Date of decision: 26.3.1997

BETWEEN:

Md. Ahmed

.. Applicant

AND

1. The Flag Officer,
Commanding-in-Chief,
for SO (Civ), Headquarters -
Eastern Naval Command,
Visakhapatnam.
2. Controller,
Controllorate of
Naval Armament Inspection,
Kanchanbagh (PO)
HYDERABAD - 500258.



Counsel for the Applicant: K. Sudhakar Reddy

Counsel for the Respondents: Sri N.V. Raghav Reddy

CORAM:

THE HON'BLE SRI R. RANGARAJAN: MEMBER (ADMN.)

THE HON'BLE SRI B.S. JAI PARAMESHWAR: MEMBER (JUDL.)

Joe

[Signature]