

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR,**  
**JABALPUR**

**Original Application No. 617 of 2003**

**Original Application No. 621 of 2003**

Jabalpur, this the 14<sup>th</sup> day of March, 2005

Hon'ble Shri M.P. Singh, Vice Chairman  
Hon'ble Shri Madan Mohan, Judicial Member

1. **Original Application No. 617 of 2003 -**

Mary Nirmala Raju, D/o. late Sri Joseph Paulose,  
Lower Division Clerk, O/o. Assistant Engineer,  
Bhilai Central Sub-Division-II,  
CPWD., Bhilai – Chhattisgarh.

.... Applicant

2. **Original Application No. 621 of 2003 -**

Ms. Usha Kurup, D/o. Shri R.R. Kurup,  
Lower Division Clerk, O/o. Assistant Engineer,  
Bhilai Central Sub-Division-I,  
CPWD., Bhilai – Chhattisgarh.

.... Applicant

(By Advocate – Shri M. Sharma in both the OAs)

**V e r s u s**

1. Union of India, Ministry of Urban Development, Nirman Bhavan, Maulana Azad Road, New Delhi, through it's Secretary.
2. The Director General of Works, Central Public Works Department, Krishi Bhavan, New Delhi.
3. The Superintending Engineer, Bhopal Central Circle, Central Public Works Department, Nirman Sadan, 52-A, Arcera Hills, Behind Govt. Press, Bhopal (MP).
4. The Assistant Engineer, BCSD-II, Central Public Works Department, Bhilai (Chhattisgarh).

.... Respondents in  
both the OAs



(By Advocate – Shri P. Shankaran in both the OAs)

**ORDER (Oral)**

**By Madan Mohan, Judicial Member –**

As the issue involved in the aforementioned cases is common and the facts and grounds raised are identical, for the sake of convenience these Original Applications are being disposed of by this Common order.

2. By filing these Original Applications the applicants have claimed the following main reliefs :

**OA No. 617/2003 -**

“(ii) quash and set aside the impugned order dated 3.9.2003, Annexure A-1 and dated nil Annexure A-2,

(iii) hold and declare the impugned order as bad in law and further direct the respondents to regularize the services of the applicant,

(iv) Direct the respondents to grant all the benefits of pay, perks and status from the initial date of appointment, with arrears, if any.

**OA No. 621/2003 -**

(ii) quash and set aside the impugned order dated 9.9.2003, Annexure A-1 and dated nil Annexure A-2,

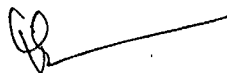
(iii) hold and declare the impugned order as bad in law and further direct the respondents to regularize the services of the applicant,

(iv) Direct the respondents to grant all the benefits of pay, perks and status from the initial date of appointment, with arrears, if any.”

3. The brief fact of the case in OA No. 617 of 2003 are that the applicant is presently working as LDC in the respondents department. She has put in 20 years of service and has unblemished service records. She was appointed as LDC on 4.9.1982 and joined on 13.9.1982 at Bhilai and underwent special training from 22.12.1982 to 2.2.1983 and she



successfully passed the final test and completed the training. The result of the training course dated 11.4.1983 is enclosed as Annexure A-6. The Executive Engineer, Bhilai Central Division as per his letter dated 7.6.1983 informed the Superintending Engineer concerned that due to acute shortage of the staff and heavy load of work and after complying all formalities 4 recruitments of Lower Division Clerks have been made. The Executive Engineer specifically mentioned that the applicant is discharging her duties excellently in the interest of Government work and has successfully underwent the public work accounts training. The applicant preferred representation seeking regularization vide Annexure A-8. Upon the closure of the Bhilai Central Division, on 30<sup>th</sup> November, 1985 the applicant was transferred to Bhopal vide Annexure A-9. Once again she was transferred to Raipur on 16<sup>th</sup> January, 1985 (Annexure A-10). Vide letter dated 17.1.1999 the Superintending Engineer Raipur Division asked the applicant to appear in the examination conducted by the Staff Selection Commission for clerical cadre for regularization of her services. As desired by the superiors, she appeared in the said examination but could not qualify the same. The Executive Engineer vide his letter dated 22.1.1991 wrote a letter to the Superintending Engineer, Bhopal for regularization of the services of the applicant (Annexure A-12). Again the Executive Engineer, Raipur took up the matter of applicant's regularization vide his letter dated 9.12.1992 addressed to the Superintending Engineer, Calcutta and brought to the notice that the applicant who was appointed though temporarily but in accordance with the recruitment rules has been drawing the usual salary and has been allowed normal annual increment. It was also brought out in the said letter that the applicant has crossed the efficiency bar raising her pay from Rs. 1150/- to Rs. 1175/- and the applicant has completed more than 10 years of service and is proved herself to be an asset of the Department (Annexure A-13). Further she was transferred to Jabalpur Central Division with effect from 3.7.1999 in consequence of the of the closure of Raipur Central Division. The applicant has served for 15 long years and



her services cannot be terminated. The applicant filed OA No. 340/2001 for regularization of her services. It was disposed vide order dated 10.7.2003 with certain directions to the respondents (Annexure A-15). But the respondents have declined the genuine claim of the applicant in a most mechanical manner without considering the past 20 years continuous sincere and honest services of the applicant. While deciding the representation of the applicant the respondent No. 3 has also passed an office order dated 3.9.2003, whereby the services of the applicant has been terminated with effect from one month from the receipt of the order. Hence, this Original Application is filed.

4. The facts of OA No. 621 of 2003 are almost same.

5. Heard the learned counsel for the parties and carefully perused the pleadings and records.

6. It is argued on behalf of the applicants that the applicants were appointed vide order dated 4.9.1982 and they have put in more than 22 years of service continuously without any adverse remark about their work, conduct and integrity and they were transferred from time to time from one station to another as and when their services were required by the respondents and they have crossed the efficiency bar also. Their superior officers have written apprehension letters regarding their excellent performance towards their duties. The applicants could not qualify the examination conducted by the Staff Selection Commission for clerical cadre for regularization but it is not mandatory because they have put in more than 20 years of regular continuous service without any break. Our attention is towards the rulings of the Hon'ble Supreme Court in the case of State of Haryana and others Vs. Piara Singh and others, (1992) 4 SCC 118 and of Gujarat Agricultural University Vs. Rathod Labhu Bechar and others, (2001) 3 SCC 574. He has also drawn our attention towards the order passed by the CAT, Jabalpur Bench, dated 13<sup>th</sup>



March, 2002 in OA No. 933/1997 and further argued that in view of aforesaid rulings the OA deserves to be allowed.


7. In reply the learned counsel for the respondents argued that although the applicants were given chance to participate in the examination conducted by the Staff Selection Commission, they could not qualify the said examination. The impugned order is in consonance with the directions of the Tribunal and is fully justified. There is no illegality or irregularity in the action of the respondents. The appointment of the applicants were made to meet out the day to day requirement of work through local employment and purely on temporary basis. The applicants were selected on temporary basis and their services can be terminated any time on one month's notice. The applicants are not eligible for regularization of services at all, as they could not qualify the examination conducted by the Staff Selection Commission. Hence, the action of the respondents is perfectly legal and justified.

8. After hearing the learned counsel for both the parties and on careful perusal of the pleadings and records, we find that the applicants are continuously serving in the Department of the respondents from last more than 22 years and there is no adverse remark against their work, conduct or integrity during the whole service record and also their superior officers have written letters of appreciation in their favour from time to time regarding their excellent performance towards discharging their duties. Both the applicants have crossed their efficiency bar. We have perused the judgments of the Hon'ble Supreme Court cited by the learned counsel for the applicants and in the case of Rathod Labhu Bechar and others (supra) the Hon'ble Supreme Court has held that "[L]abour Law – Regularisation – Non regularization for long period – Impropriety of, and mode of rectification – Daily-rated labourers engaged dehors the rules as plumbers, carpenters, sweepers, pump operators, helpers and masons by a fully State-aided University and continued as such for long period of 10

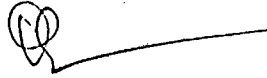


years or so without considering their regularization – Such an act on the part of the University, held, constituted an unfair labour practice – The daily-rated labourers ought to have been absorbed in existing vacant posts in accordance with rules and if necessary by relaxing the qualifications and creating necessary number of posts.” It is further held that “[L]abour Law – Regularization – Wages – Daily rated labourers working in fully State-aided University but not completing the requisite length of service for regularization, i.e. 10 years of service with a minimum of 240 days in a year – Provision in regularization scheme for paying them daily wages at the rates prescribed by the State Government – Legality – Upheld – Plea for a minimum pay scale, rejected.” We also perused the judgment passed by this Tribunal in the case of S. Rajeshwar Rao – OA No. 933/1997 (supra) and find that the case of the applicants is fully covered by the order passed by the Tribunal on 13.3.2002. Thus, the services of the applicants also cannot be terminated and the applicants are legally entitled for regularization of their services.

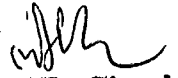
9. Considering all the facts and circumstances of the case, we are of the considered opinion that both the Original Applications deserves to be allowed and the impugned orders passed by the respondents are liable to be quashed and set aside. Accordingly, the Original Applications are allowed and the impugned orders dated 3.9.2003 (Annexure A-1 in OA No. 617/2003) and dated nil Annexure A-2 in OA No. 617/2003 and further order dated 9.9.2003 (Annexure A-1 in OA No. 621/2003) and dated nil Annexure A-2 in OA No. 621/2003 are quashed and set aside. The respondents are directed to regularize the services of the applicants from the date of their initial appointment and grant them all consequential benefits accordingly. No costs.



10. The Registry is directed to place a copy of this order in the another file i.e. OA No. 621 of 2003.



**(Madan Mohan)**  
**Judicial Member**



**(M.P. Singh)**  
**Vice Chairman**

“SA”