

**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-3176/2016

Reserved on : 04.10.2017.

Pronounced on : 09.10.2017.

Hon'ble Ms. Praveen Mahajan, Member (A)

Smt. Sunita Devi, 44 years
W/o Sh. Suresh Babu,
R/o Nangla, Kharag, Nangla Alia,
Hathras, Uttar Pradesh.

.... Applicant

(through Sh. Sujeet Kumar Mishra, Advocate)

Versus

1. Union of India through
Secretary,
Ministry of Civil Aviation & Tourism,
Sardar Patel Bhawan,
New Delhi.

2. Union of India through
Under Secretary,
Principal Account Office,
Ministry of Civil Aviation & Tourism,
Sardar Patel Bhawan,
New Delhi.

..... Respondents

(through Sh. M.S. Reen, Advocate)

ORDER

The applicant has filed the current O.A. seeking the following relief:-

- “(i) To issue order(s)/direction(s) to the respondents for grant of temporary status to be conferred upon the applicant who has

rendered continuous services for the last 17 years in the respondent organization.

- (ii) To issue order(s)/direction(s) to the respondents to regularize/absorb the applicant for the suitable available.
- (iii) To issue directions to the Respondents to avail the applicant all the benefits and perquisites as entitled to the casual labourers.
- (iv) To pass orders for consequential benefits.
- (v) To pass order for award of cost against the Respondent and, in favour of the Applicant.
- (vi) To pass such other and further orders which this Hon'ble Tribunal may deem fit and proper in the interest of justice."

2. Briefly stated the facts of the case are that the applicant has been working as casual worker with the respondents since 21.04.1999. Copy of applicant's appointment letter is annexed at Annexure-A. It is averred that the applicant has been working on daily wages with the respondents thereafter. On 11.05.2000, the respondents issued a Circular whereby the applicant has been shown to be engaged on contract basis for cleaning work w.e.f. 04.05.2000 to 03.05.2001 (Annexure-B). In continuation, the respondents again issued a Circular dated 02.05.2001 whereby the contract of the applicant was renewed for one more year i.e. from 04.05.2001 to 03.05.2002 (Annexure-C). Between 10.05.2002 to 27.09.2002, the respondents time and again renewed the contract of the applicant for cleaning work for a short duration of two months (04.05.2002 to 03.07.2002) and thereafter for a period of three months w.e.f. 06.09.2002 to 05.12.2002. This was done vide letters dated 10.05.2002 and 27.09.2002 of the respondents (Annexure-D). It

is further averred that the same exercise continued for the years 2002-03 and 2003-04 (Annexure-E). Likewise, the respondents extended the job of the applicant from time to time till 2010. The applicant has represented to the respondents for her regularization/absorption with the organization but to no avail. She also issued a legal notice dated 09.01.2014, which was followed by a reminder dated 17.10.2014 seeking regularization of her services. The representation of the applicant dated 21.08.2015 for her absorption with the respondents department has been rejected on 14.09.2015 by the respondents. Similar request made in the year 2015 has been declined by the respondents causing serious injustice and injury to the applicant.

3. In reply to the OA, the respondents state that the applicant does not fulfill the condition for regular employment. They submit that the Apex Court in the case of **Secretary, State of Karnataka & Ors. Vs. Uma Devi (3) & Ors.**, (2006) 4 SCC 1 laid down the law that contractual employee has no right for claiming regularization. The applicant was appointed purely on temporary basis for a period of 89 days on daily wage basis and has served the department from 16.04.1999 to 13.07.1999. They submit that in response to notice inviting quotations issued by the respondents for housekeeping job, the applicant submitted her quotation in the name of Sunita Housekeeping Contractor. Being lowest contractor, she was

awarded the work and remained attached with the respondents as a contractor and was awarded housekeeping job on contract basis till 31.12.2012. In support of this contention, the respondents have attached some of the quotations of the applicant at Annexures-1 to IV. They state that the period of the contract was extended by the respondents on the request of the applicant. All such requests submitted by the applicant for extension of the work are available at Annexures-V to VII. Since the respondents have not violated any law, the plea of the applicant needs to be rejected.

4. During the course of hearing, the same arguments were advanced by both sides. On going through the facts of the case, I find that the applicant has not been able to make out a convincing case in her favour. It is clear that the initial appointment of the applicant itself on 21.04.1999 was for a period of 89 days only. She has since been working with the respondents continuously with intermittent breaks. Her contract with the respondents has been renewed from time to time till 2010 and again for a period of two months from 21.02.2011 to 20.04.2011. The legal notice issued by her at Annexure-H on 09.01.2014 followed by a reminder dated 18.08.2015 stands categorically rejected by the respondents vide their letter dated 14.09.2015 informing the applicant that:-

“You have been employed and working under a contractor and in this regard all your payments are made directly by the contractor only. You

don't have any direct connection with this office. There is no sanction post for the post of "Cleaning worker" in our office.

Accordingly you are informed that your request for regular employment is not acceptable by this office."

4.1 I find that this rejection order has not been challenged by the applicant. The plea of the learned counsel of the applicant that she again filed a representation on 05.03.2016 seeking her regularization and hence needs to be considered by the respondents does not hold much ground since it is merely a reiteration of her persistent request for seeking absorption in the respondents organization. The submissions made by the applicant for grant of temporary status and regularization cannot be thrust upon the respondents department, who have not violated any right of the applicant. The OA lacks merit and the same is hereby rejected. The O.A. is accordingly dismissed. No costs.

(Praveen Mahajan)
Member (A)

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