

**Central Administrative Tribunal
Principal Bench**

OA No.3472/2016

Order Reserved on: 19.07.2018
Order Pronounced on: 20.07.2018

Hon'ble Ms. Nita Chowdhury, Member (A)

Smt. Sumitra Devi, Age 45,
W/o Sh. Anand Kumar,
R/o H.No.87/28, Jawahar Nagar,
Near Gautam Shiksha Sadan,
Sonapat-121001, Haryana

- Applicant

(By Advocate: Mr. R.K. Shukla)

Versus

1. Union of India
Through the Secretary,
Ministry of Finance,
Department of Revenue,
Central Excise & Customs
Ground Floor, HUDCO,
Vishala Building, Bicaji Cama Place,
RK Puram, New Delhi
2. The Deputy Secretary,
Govt. of India,
Ministry of Finance,
Department of Revenue,
CVEC, 4th Floor, HUDCO,
Vishala Building, Bicaji Cama Place,
RK Puram, New Delhi
3. The Chief Commissioner of
Central Excise Custom, Service Tax,
Commissionerate, Delhi,
CR Building, IP Estate,
New Delhi-110001
4. The Chief Commissioner of
Central Excise Custom,
Cadre Controlling Authority,
Delhi Zone, CR Building,
IP Estate, New Delhi-110001

5. The Additional Commissioner,
Cadre Control Unit, Delhi Zone,
CR Building, IP Estate,
New Delhi-110001 -Respondents

(By Advocate: Mr. Rajesh Katyal)

ORDER

This Original Application (OA) has been filed by the applicant seeking the following reliefs:-

- “(a) To direct the respondents to forward the name of the applicant to the Secretary, Ministry of Finance for including her name in the list dated 18.08.2015.
- (b) To direct the respondents to consider the case of the applicant for appointment as MTS on regular basis extending the benefits of letter dated 26.10.2015 as well as judgment of Madras High Court.
- (c) To allow the original application with all consequential benefits thereby directing the respondents to change the mode of retention of the applicant to perform her duties, as daily wager till such process of regularization is complete.
- (d) Any other relief which this Hon’ble Tribunal deem fit and proper may also be passed in the facts and circumstances of the case in favour of the applicant.”

2. The facts, as stated, are that the applicant was appointed as a part time paid staff (Sweeper) from 01.06.1993 to 31.03.1994 vide office order dated 02.03.1994 issued by Central Excise Division, Sonapat. Her appointment was extended from 01.04.1994 vide order dated 13.04.1994. However, in compliance of the

CBEC's letter dated 02.05.2005 regarding engagement of casual labourers through service providers, 4 contingent workers were hired through one service provider, i.e. M/s Khatri Security & Placement Services, Sonapat from September, 2005 and the applicant was removed from the part-time casual labour from 31.08.2005. Therefore, the last payment made to the applicant from the office of the respondents was for the month of August, 2005.

3. The respondents have quite fairly stated that name of the applicant was not forwarded for the purpose of consideration for regularization in compliance of CBEC's letter dated 28.07.2015 issued in light of judgment of Madras High Court dated 29.09.2011 in WP No. 206664/2011 because she is not is not on the rolls of the respondents since 01.09.2005. As regards reliance placed by the applicant on the scheme of grant of Temporary Status of 1993, the respondents have submitted that the applicant is not covered by the said scheme as it was only applicable to those casual employees who had rendered one year of continuous service in Central Government offices as on 10.09.1993. Thus, the applicant having been appointed on 01.06.1993 does not fulfill the conditions of the aforesaid

Scheme of 1993 for grant of temporary status and regularization.

4. The respondents have further controverted the claim of the applicant stating that the applicant is getting salary through an independent contractor and thus, there is no employer and employee relationship between the applicant and the answering respondents. As such, the matters relating to employment by private contractor do not come within the jurisdiction of this Tribunal.

5. Heard the counsel for the parties and perused the pleadings available on record.

6. Having considered the facts of the case and rival contentions of the parties, this Tribunal finds that the applicant has not been able to make out a case in her favour in the OA. This Tribunal also finds that the applicant is employed through a private contractor and hence, this does not attract the jurisdiction of Central Administrative Tribunal under Section 14 of the Administrative Tribunals Act, 1985. The OA is, therefore, dismissed. No order as to costs.

(NITA CHOWDHURY)
MEMBER (A)

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