

CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI

O.A.No.210/00063/2014

Dated this Monday the 4th day of February, 2019.

Coram: Dr. Bhagwan Sahai, Member (A).
Shri R. N. Singh, Member (J).

1. Asha Mukund Deshmukh
Aged 60 years, lastly working
as temporary status casual labour
in the office of Commissioner
of Central Excise, Mumbai-III
Commissionerate, 3rd and 4th floor,
Vardhan Trade Centre, Road No.16,
MIDC, Waghale Estate, Thane (W),
Mumbai-400 604 and residing at
Room No.3, 3rd floor, Gajavakra
Society, Near Khoja Kabrastan,
Prabhat Nagar, Thane-400 602.

...Applicant.

(By Advocate Shri R. Ramesh).

Versus

1. Union of India,
through the Secretary,
Ministry of Finance, Department
of Revenue, Government of
India, North Block,
New Delhi-110011.
2. Commissioner of Central Excise
Mumbai-III Commissionerate,
3rd and 4th floor, Vardhan
Trade Centre, Road No.16,
MIDC, Wagle Estate,
Thane (West)-400 604.
3. The Additional Commissioner of
Central Excise (P & V),
Mumbai-III, Commissionerate,
4th floor, Vardhan Trade Centre,
Road No.16, MIDC, Wagle
Industrial Estate,
Thane (W)-400 604.

... Respondents.

(By Advocate Shri R. R. Shetty).

O R D E R (O R A L)Per : R. N. Singh, Member (Judicial)**Present.**

1. Shri Ramesh Ramamurthy, learned counsel for the applicant.
2. Shri R. R. Shetty, learned counsel for the respondents.
3. Heard the counsels for the parties. The applicant who is stated to have been engaged by the respondents as Daily Wager was given temporary status w.e.f. 01.09.1993 vide establishment order No.141 of 1994 dated 31.08.1994 (Annexure A-1) has approached this Tribunal seeking for the following reliefs;

"a) that this Hon'ble Tribunal be pleased to hold and declare that the inaction on the part of the respondents in not taking steps to grant permanent status to the applicant after 01.09.1993 is illegal, arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India;

b) that this Hon'ble Tribunal be pleased to direct the respondents to treat the applicant as a permanent employee of the department and count the entire service of the applicant from the date of grant of temporary status i.e. 01.09.1993 till 31.12.2012 as duty rendered on permanent basis and grant the applicant all service benefits including GPF, Gratuity, pension and all other service benefits as admissible to permanent group D employee in the department and pay the said amounts and service benefits to the applicant

accordingly along with interest on the amount of arrears payable from the due date till payment;

c) that such other and further order or orders be passed in the facts and circumstances of the case, as may be required.

d) that the cost of this application be granted."

4. The respondents have filed written statements and have opposed the prayer of the applicant made in the OA.

5. On behalf of the respondents Shri R. R. Shetty, Senior Central Government Counsel submits that the temporary status to the applicant who had been engaged as casual worker was granted in pursuance to the OM No.7(3)(Coord)/1999 dated 05.08.1999 issued by Ministry of Personnel, DoPT. While working as casual labour the applicant had attained age of 60 years on 09.12.2012 and therefore, her service was dispensed with w.e.f. 31.12.2012 after giving one month notice vide letter dated 03.11.2012.

6. In para-1 of the written statements, the respondents have specifically averred that none of the juniors of the applicant has been regularized / absorbed, till her discontinuation from service. Besides, the applicant does not

fulfil the educational qualification as required under the Rules in as much as she is only capable of signing her name and she is completely illiterate.

7. In the facts and circumstances, the learned counsel for the respondents argue that the no cause of action has accrued to the applicant and therefore the OA is liable to be dismissed.

8. Nothing as been argued on behalf of the applicant to substantiate the claim of the applicant in the OA. The learned counsels for the applicant submits that the Tribunal may direct the respondents to consider regularization of the applicant keeping in view the fact that the applicant had worked for more than 18 years on temporary status. However, we are of the considered view that the same does not entitle the applicant to regularization, contrary to the Rules and when no juniors to him have been regularized.

9. In the facts and circumstances, the OA is devoid of merits and accordingly the same is dismissed. No order as to costs.

(R. N. Singh)
Member (J)

(Dr. Bhagwan Sahai)
Member (A)

V.
JND
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