

CENTRAL ADMINISTRATIVE TRIBUNAL,  
MUMBAI BENCH, MUMBAI.

O.A.210/655/2013

Date of decision : September 12th, 2019.

Coram: Dr.Bhagwan Sahai, Member (Administrative)  
R.N. Singh, Member (Judicial).

Shri Ramkishan Dhandalu Barman  
Age-37 years,  
R/at C.o. A. U. Bhosale,  
At post Mhergaon,  
Tal. Dhule.

.. Applicant.

( By Advocate Shri Vicky Nagrani ).

**Versus**

1. Union of India thorough  
The Secretary,  
Ministry of Human Resource  
Development,  
Department of school Education  
and Literacy, Shastri Bhawan,  
New Delhi-110 001.
2. The Deputy Commissioner,  
Navodaya Vidyalaya Samiti,  
Sheti Mahamandal Bhawan,  
(MSFC ltd.),  
Iind Floor, B-Wing,  
270 Bhamburda,  
Senapati Bapat Road,  
Pune-411 016.
3. Teh Principal,  
Jawahar Navodaya Vidyalaya,  
Akkalkuwa,  
Dist. Nandurbar-425 415.

.. Respondents.

( By Advocate Shri V. S. Masurkar ).



O R D E R (O R A L)Per : Dr. Bhagwan Sahai, Member (A)**Present.**

1. Shri Vicky Nagrani, learned counsel for the applicant.
2. Shri V. S. Masurkar, learned counsel for the respondents.
3. The applicant has filed the present OA under Section 19 of the Administrative Tribunal's Act, 1985 seeking the following reliefs:

"a. This Hon'ble Tribunal may graciously be pleased to call for the records of the case from the Respondents and after examining the same hold and declare that the oral order of termination of services of the Applicant is nonest illegal and void.

b. This Hon'ble Tribunal may further be pleased to direct the Respondents to regularize the services of the applicant to the post of Chowkidar-cum-Sweeper w.e.f. 2009 with all consequential benefits.

c. Alternatively this Hon'ble Tribunal may be pleased to direct the Respondents to reinstate the Applicant w.e.f. 2011 and consider his case for regularizing his services to the post of Chowkidar Cum Sweeper with all consequential benefits.

d. Costs of the application be provided for.

e. Any other and further order as this Hon'ble Tribunal deems fit in the



nature and circumstances of the case be passed."

4. The learned counsel for the applicant submits that in view of the judgment of Hon'ble Apex Court in State of Karnataka Vs. Uma Devi, the applicant is entitled to be considered for regularization in view of the fact that he has worked on par-time casual basis under the respondents for more than 10 years.

5. The applicant is allegedly being aggrieved by his un-ceremomious dis-engagement from the service of the respondents as Safaiwala working on Casual basis.

6. The learned counsel for the applicant submits that the applicant was engaged w.e.f. 10.07.1999 on part-time basis to perform duties of Chawkidar in the mess for cooking food as well as for cleaning dining hall, utensils, gardening and he has been continued as such for more than 10 years. In this regard, he refers to certificate issued by Principal Jawahar Navodaya Vidyalaya, Akkalkuwa district Nandurbar, Maharashtra, JNV Shikohabad district Firozabad, UP and JNV Sandhuan, district, Ropar, Punjab, (Annex A-1), (Annex A-2) and (Annex



A-3).

7. In response to notice from this Tribunal, the respondents have filed reply. They have taken various objections including that the OA is barred by limitation, and suffers from delay and laches.

8. On merits, the learned counsel for the respondents submits that the applicant was engaged by the Principal, JNV, Nandurbar on daily wages, pending final selection of a suitable person for that post. He further submits that the applicant was engaged only on part-time basis to meet administrative exigencies.

9. The applicant was not engaged after issuing advertisement notification for filling up of such post. More over, the respondents have asserted in their reply that once the post was filled on regular basis in accordance with Recruitment Rules, the applicant was directed not to report any further for duty as part-time casual worker.

10. The respondents have also submitted that as per the Recruitment Rules applicable at the relevant time the Principal of Jawahar Navodaya Vidyalaya was Competent to recruit only candidates who were



bonafide residents of the district in which the JNV was situated.

11. The learned counsel for the respondents submits that in view of Apex Court decision in case of Mohd. Asif and Others Vs. S/o Bihar reported in 2011 (1) SLJ (SC) 143, the part-time employees are not entitled to seek regularization. He further refers to and relies upon the Kartik Chandra case. The respondents have denied that the applicant has been transferred from one Vidyalaya to another Vidyalaya under them.

12. In view of the fact that the applicant has neither been engaged by following due process of recruitment rules nor he has been engaged on full-time basis. Moreover, once the post against which the applicant was engaged on part-time basis has been filled up by a regularly selected person, there is no scope for engagement of the applicant.

13. The learned counsel for the applicant further argues that the applicant was considered by a Committee for regularization in a meeting held on 18.03.2006 and the Committee recommended his name for the post of CCS. However, the respondents



counsel submits that such recommendation was not accepted by the Competent Authority on the ground that the applicant belongs to other state whereas the extant rule require consideration of only local candidates for such post. Accordingly, the Competent Authority after rejecting the recommendation directed to re-conduct the selection process for the post, which in accordance with the relevant rules was done subsequently by the respondents for filling up the post on regular basis.

14. In view of these facts of the case, we do not find any merit in the prayer of the applicant for his consideration for regularization in service of the respondents. Accordingly, the OA is found to be devoid of any merit and therefore deserves to be dismissed.

15. In the facts and circumstances, the OA is dismissed.

16. No order as to costs.

(R. N. Singh)  
Member (J)

(Dr. Bhagwan Sahai)  
Member (A)

V.

JD  
19/9/19