

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

OA/020/25/2014

Dated: 18/11/2019

Between



N. Venkata Laxmi,
W/o. Late S. Adi Babu,
Aged about 52 years,
Working as Casual Labourer,
O/o. the Assistant Commissioner,
Customs & Central Excise,
Yanam-Range,
Kakinada-II Division, Kakinada.
R/o. Yanam.

... Applicant

AND

1. Union of India rep. by
The Chief Commissioner,
Central Excise & Customs,
Visakhapatnam Zone,
Visakhapatnam.
2. The Commissioner,
Customs & Central Excise,
Visakhapatnam, Commissionerate-I,
Visakhapatnam.
3. The Assistant Commissioner,
Customs & Central Excise,
Yanam-Range,
Kakinada-II Division,
Kakinada.

... Respondents

Counsel for the Applicant : Mr. M.V. Krishna Mohan
Counsel for the Respondents : Mrs. L. Pranathi Reddy,
Addl. CGSC

CORAM :

Hon'ble Mr. S.N. Terdal, Member (Judl.)
Hon'ble Mrs. Naini Jayaseelan, Member (Admn.)

ORAL ORDER
 { Per Hon'ble Mr. S.N. Terdal, Member (Judl.) }

Heard Smt. Swapna representing Sri M.V. Krishna Mohan, learned counsel for the applicant and Smt. L. Pranathi Reddy, learned counsel for the respondents, and perused the O.A. and all the pleadings.

2. The relief prayed for in the O.A. is as follows:

ö.....to declare the action on the part of the respondents in not granting temporary status and regularizing the services of the applicant as arbitrary, illegal and unjust and consequently direct the respondents to grant temporary status and regularize the services of the applicant in pursuance of the DOPT instructions vide F.No.49019/1/2006/ Estt.(C) dated 11.12.2006 from the date the applicant became eligible for grant of temporary status and accordingly pay her all arrears of salary and other consequential benefits.ö

3. The relevant facts of the case are that the applicant was employed on daily wage basis from 5.5.1993 and her employment was continued until June, 2005, admittedly for more than 10 years. Now, allegedly the applicant was discontinued from engagement and the same work was taken from service provider thereafter.

4. Learned counsel for the applicant vehemently and strenuously submits that the applicant requires to be regularised in view of the law laid down by the Hon'ble Supreme Court in the case of *Secretary, State of Karnataka vs Uma Devi & Others (2006) 4 SCC 1* and also in view of the order dated 27.01.2012 passed by the Co-ordinate Bench of C.A.T. at Bangalore in

similar case in O.A. No. 145/2008. She brought to our notice Para 5 of the order dated 27.01.2012, which is extracted hereunder:



55. Therefore, O.A. is allowed in terms of Uma Devi's judgement. The applicant shall be regularised and all orders issued by the respondents, contrary to this stipulation, is hereby quashed. Their services shall be regularised along with other employees parameteria as in Annexure A-14, for they were doing the same work and shall extend the same benefits to them within three months from today.ö

5. The said order dated 27.1.2012 of the Hon'ble Tribunal was ultimately upheld by the Hon'ble High Court in Writ Petition Nos. 70873/2012 & 79187-188/2013 (S-CAT) C.W. W.P. Nos. 70874/2012 & 79190-191/2013 (S-CAT) dated 18.6.2013 and by the Hon'ble Supreme Court in SLP No. 13733/2014 dated 1.9.2014, by dismissing the appeals of the department.

6. Learned counsel for the respondents equally vehemently submits that neither the applicant has worked for more than 10 years nor she has worked in the sanctioned post.

7. However, from the averments of the counter it is clear that the applicant indeed worked for more than 10 years and as she has worked for more than 10 years, she must have worked against a sanctioned vacancy.

8. In view of the above facts and circumstances and in view of the law laid down by the Hon'ble Supreme Court and in view of the order passed by the Co-ordinate Bench of C.A.T. at Bangalore (supra), we allow the O.A. and direct the respondents to regularise the services of the applicant with all

consequential benefits, within two months from the date of receipt of certified copy of this order. No order as to costs.

(NAINI JAYASEELAN)
MEMBER (ADMN.)

(S.N. TERDAL)
MEMBER (JUDL.)

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