**Before The Hon'ble State Administrative Tribunal At Shimla**

O. A. No :\_\_\_\_\_ of 2004

Applicant

VERSUS

Respondents

APPLICATION UNDER SECTION 19 OF THE H.P. ADMINISTRATIVE TRIBUNALS ACT, 1985

Shimla Applicant

\_\_\_\_\_ Through, Advocate

Respectfully Sheweth :

1. Particulars of the Applicant:

As given in the Memo of Parties.

2. Particulars of the Respondents:

As given in the Memo of Parties.

3. Impugned Order:

That the applicant is aggrieved by the impugned order dated \_\_\_\_\_\_ issued by the respondents whereby the respondents have terminated the services of the applicant w. e. f.\_\_\_\_\_

That the applicant is also aggrieved by the fictional brakes given in the service of the applicant by the respondents without paying her wages for the said period and the said impugned orders giving fictional brakes are arbitrary, illegal, malafide, violative of the Constitutional Rights, Labour Laws and natural justice and issued in colourable exercise of power.

4. Jurisdiction:

That the applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of this Hon'ble Tribunal.

5. Limitation:

That the applicant further declares that the application is within the limitation prescribed in section 21 of the Administrative Tribunals Act, 1985.

6. Facts of the Case:

6.1 That the applicant submits that the applicant was initially appointed on daily wages on\_\_\_\_\_. The applicant being an educated and unemployed youth accepted the said job under pressing circumstances and on the good faith that no undue advantage would be taken by the respondents. It is submitted that the applicant is duly registered with the Employment Exchange.

6.2 That the applicant was thereafter continued in service till 25th September 1999 with the fictional brakes given after every 89 days so as to deprive the applicant of her legitimate rights of being regularised. The applicant has completed 240 days in each calender year, as per the details given below for kind perusal of My Lords :-

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Month Nos. of days worked. Remarks

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6.3 That here it would be pertinent to mention that the respondent industry is a commercial industry doing business over crores of rupees in a year and has a turnover of its production exceeding 50 lakhs boxes per year and the demand is ever growing every year as the government in its conscious view has taken decision to preserve the greenery of Himachal Pradesh and thus set up the said industry. Besides this the other main object of the Government of Himachal Pradesh was to generate the employments for the youths of the state and in such bid has initially engaged the applicant and such other persons on daily wages with the promise to regularise their services.

6.4 That the applicant has ever since completed 240 days in any given year and has been working ever since to the entire satisfaction of seniors and the publicmen.

GROUNDS

6.5 That feeling aggrieved by such an arbitrary, malafide, discriminatory and illegal actions of the respondents, the applicant seeks the indulgence of this Hon'ble Tribunal on the following grounds amongst others, each one of which is without prejudice to and independent of others :-

(i) That the impugned order issued by the respondent is arbitrary, malafide, illegal, ultra vires, against the Articles 14 and 16 of the Constitution of India, dehors the rules and regulations and against the natural justice.

(ii) That the respondents have given fictitious brakes in the service of the applicant just to deprive the applicant of legitimate rights for regularisation.

(iii) That the respondents are estopped due to their own act, deed and conduct. The principle of the Promissory Estopple applies against the respondents.

(iv) That the impugned order is against the well settled principles of the law as laid down by the Hon'ble Supreme Court and this Hon'ble Tribunal in catena of cases.

7. Reliefs Sought:

That the applicant, therefore, prays that your Lordship be pleased to issue an appropriate writ, orders or directions to grant the following reliefs in favour of the applicant in the interest of justice:-

(a) Quash the impugned order A\_\_\_\_\_ issued arbitrarily, malafidely and illegally by the respondents;

(b) Direct the respondents to re-engage the applicant wef \_\_\_\_\_ th date of illegal termination with all the consequential benefits and backwages alongwith interest @ 18% pa and count the intervening period towards the seniority ets of the applicant;

(c) Direct the respondents to produce all the relevant documents alongwith reply for perusal by this Hon'ble Tribunal;

(d) Allow the cost of this O.A.;

(e) Pass such other order or directions as deemed fit and proper in favour of the applicant.

AND FOR THIS ACT OF KINDNESS, THE HUMBLE APPLICANT AS IN DUTY BOUND, SHALL EVER PRAY.

8. Interim Orders, If Prayed:

It is most respectfully prayed that during the pendency of this O.A. the respondents be directed to re-engage the services of the applicant.

9. Details of Remedies Exhausted:

That the applicant submits that since the matter being of an urgent nature, there is no other alternative speedy and efficacious remedy available to him except to approach this Hon'ble Tribunal.

10. Matter not Pending with any other Courts Etc:

That the applicant further declares that the matter regarding which this application has been made, is not pending before any court of law or any other Authority or any other bench of this Hon'ble tribunal.

11. Particulars of Court Fees:

Court fees worth Rs 50/- is attached herewith.

12. Details of Index:

An index of the documents is enclosed herewith.

Shimla Applicant

\_\_\_\_\_\_ Through, Advocate

**BEFORE THE HON'BLE STATE ADMINISTRATIVE TRIBUNAL AT SHIMLA**

O. A. No:\_\_\_\_\_ of 2004

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Affidavit in support of O.A. under Section 19 of the H.P. Administrative Tribunals Act 1985.

I,\_\_\_\_\_, do hereby solemnly, affirm and declare as under

1. That the accompanying O.A. has been prepared under my instructions.

2. That the contents of paras 1 to 12 of the accompanying application are correct and true to the best of my knowledge.

3. That I further solemnly affirm and declare that this affidavit of mine is correct and true to the best of my knowledge and no part of it is false and nothing material has been concealed therein.

Affirmed at Shimla this the \_\_\_\_\_

DEPONENT

**BEFORE THE HON'BLE STATE ADMINISTRATIVE TRIBUNAL AT SHIMLA**

O. A. No:\_\_\_\_\_ of 2004

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Shimla Applicant

\_\_\_\_\_\_\_ Through, Advocate

**Annexure - A**

**High Court of Himachal Pradesh Shimla**

**Appellate Side**

Receipt showing Court Fees Paid : OA No :\_\_\_\_\_ of 2004

\_\_\_\_\_\_ Versus \_\_\_\_\_\_

|  |  |
| --- | --- |
| Particulars | Amount |
| Court Fees stamp on Memo | 50.00 |
| Petition |  |
| Enclosures |  |
| Vakalatnama | 2.65 |
| Process Fees |  |
| Others |  |
| Total | 52.65 |

Date : \_\_\_\_\_\_

Signature of Receiving Clerk

Before the Hon'ble State Administrative Tribunal at Shimla

O. A. No.:\_\_\_\_\_\_ of 2004

Applicant

Versus

Respondents

Court Fees Rs. 50/-

Shimla Applicant

\_\_\_\_\_\_ Through, Advocate