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

OA No.:\_\_\_\_\_\_ of 2004

Applicant

Versus

Respondents

Application Under Section 19 of the 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 action of the respondents whereby they have not regularised the services of the applicant from the due date and as such now they are not going to pay the pension to the applicant as they have not prepared pensionary documents of the applicant by counting the service of the applicant rendered as daily wager/work charged for the purpose of pension. The applicant as worked as under:-

(a) Daily waged from \_\_\_\_\_ to \_\_\_\_\_ \_\_\_\_\_\_\_ years

(b) Regular Service from \_\_\_\_\_\_ to \_\_\_\_\_\_\_\_\_\_\_\_ years

(c) Total pensionable service by counting half service as daily waged worker \_\_ years

4. Jurisdiction

That the applicant declares that the subject matter is within the jurisdiction of this Hon'ble Tribunal.

5. Limitation:

That the applicant further declares that the application is within the limitation.

6. Facts of the Case:

6.1 That the applicant submits he was initially engaged as daily wager on \_\_\_\_\_. Eversince the applicant discharged his service with the utmost devotion and sincerity and completed more than requisite minimum 240 days in each calender year for being regularised. The applicant has completed \_\_\_\_\_ years of service upto \_\_\_\_\_\_.

6.2 That however, the applicant was given a status of work charged work/regularised \_\_\_\_\_\_ in the year \_\_\_\_\_ in the pay scale of Rs. \_\_\_\_\_ vide Annexure A-\_\_\_\_\_.

6.3 That thereafter the respondents have confirmed and promoted the applicant as \_\_\_\_\_ in \_\_\_\_\_\_ and the applicant is discharging his duties as such.

6.4 That the applicant has been retired on attaining the age of superannuation on \_\_\_\_\_\_. The arbitrary and illegal action of the respondents in not regularising the service of the applicant from the due date has resulted in huge financial loss as well as the future consequential benefits, like pensionary and allied benefits etc.

6.5 That the applicant was genuinely and legitimately expecting that the services of the applicant will be regularised retrospectively, ie; \_\_\_\_\_\_ when the applicant has completed minimum 10 years of service for being regularised.

6.6 That the applicant accordingly made a representation to the respondents on \_\_\_\_ (Annexure A-\_\_\_\_\_). However, the respondent department has not chosen to decide the same till date.

GROUNDS

6.7 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, which may be taken at the time of arguments, each one of which is without prejudice to and independent of others :-

(a) That the impugned action of the respondents in not granting the pension to the applicant 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.

(b) That the applicant is entitled for pension. The law in this regard is well settled by the Hon'ble High Court of \_\_\_\_\_\_\_\_\_\_\_\_ Apart from this the applicant is entitled for regularisation wef \_\_\_\_\_\_\_ and for all the consequential benefits wef that date.

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

(d) 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 action of the respondents whereby they have not regularised the applicant from \_\_\_\_\_\_ being arbitrary, malafide and illegal;

(b) Direct the respondents to regularise the applicant from \_\_\_\_\_\_ with all the consequential benefits, ie; annual increments, arrears with interest @18% pa;

(c) Direct the respondents to prepare the pensionary documents of the applicant and pay all the pensionary benefits to the applicant immediately wef date of retirement alongwith all consequential benefits and interest @ 18% pa thereon;

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

(e) Allow the cost of this OA;

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

8. Interim Orders, If Prayed:

No interim is being prayed at this time.

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 containing the details of the documents to be relied upon is enclosed herewith.

Shimla Applicant

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

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

OA No.: \_\_\_\_\_\_of 2004

Applicant

Versus

Respondents

Affidavit in support of OA under Section 19 of the 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 \_\_\_\_\_\_.

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

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Shimla Applicant

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