**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 order issued by the respondents \_\_\_\_\_\_\_\_

The said impugned order is arbitrary, illegal, malafide, violative of the Constitutional Rights and natural justice and issued in colourable exercise of power.

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 that \_\_\_\_\_\_\_\_

GROUNDS

6.2 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 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.

(b) That \_\_\_\_\_\_

1. Short title, extent and commencement. -

(1) This Act may be called the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date (W.e.f. 7.2.1996, Vide Not. No. S.O. 107(E), dt. 7.2.1996.) as the Central Government may, by notification, appoint.

(c) That as per the definition given in Section 2 (i) of the Act, the Disability means as under:-

(i) Disability means-

(i) Blindness;

(ii) Low vision;

(iii) Leprosy-cured;

(iv) Hearing impairment;

(v) Locomotor disability;

(vi) Mental retardation;

(vii) Mental illness;

(d) That the disability of the applicant is covered under above category, ie; \_\_\_\_\_\_\_\_.

(e) That the Section 47 of the above Act provides as under:-

47. Non discrimination in Government employment-

(1) No establishment shall dispense with, or reduce in rank, an employee who acquires a disability during his service:

Provided that, if an employee, after acquiring disability is not suitable for the post he was holding, could be shifted to some other post with the same pay scale and service benefits:

Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.

(2) No promotion shall be denied to a person merely on the ground of his disability:

Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section."

(f) That though these provisions are ipso facto applicable to whole of India, yet the respondent state has specifically made these provisions applicable to its employee by issuance of notification dated 02.08.1999 (Annexure A-\_\_\_\_\_\_\_).

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

(h) 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, malafide and illegally by the respondents;

(b) Direct the respondents \_\_\_\_\_\_ ;

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

(d) Allow the cost of this OA;

(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 OA, the operation of the impugned order A-\_\_\_\_\_ may kindly be stayed.

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 OA 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