**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 regularised the services of the applicant against the post of \_\_\_\_ wef \_\_\_\_\_ despite the fact that the applicant has worked for more period on the post of \_\_\_\_\_ and is therefore entitled to be regularised on the post of \_\_\_\_ wef \_\_\_\_\_ when the applicant has completed 8 years of service required for regularisation.

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 has done his \_\_\_\_ matriculation in \_\_\_\_\_ (Annexure A-\_\_\_\_) and possess the qualifications of \_-\_\_ (Annexure A-\_\_\_\_).

6.2 That the applicant submits that he was initially engaged as daily wager \_\_\_\_\_ wef \_\_\_\_\_ and ever since the applicant has put in 240 days service in each calender year as per Annexure A- \_\_\_\_, and as well as the applicant has completed \_\_\_\_\_ years of service on \_\_\_\_\_ which is more than minimum 8 years of service which entitles the applicant for regularisation of his service in accordance with Rules and the law settled by the Hon'ble Supreme Court. The applicant has become due for regularisation on the post of \_\_\_\_\_ wef \_\_\_\_\_.

6.3 That \_\_\_\_\_

6.4 \_\_\_\_\_\_\_That the respondent department has given fictional and artificial breaks in the service of the applicant so as to deprive him from getting regularised.

6.5 That the respondent department has regularised the services of the similarly situated persons on completion of 8 years of service and has discriminated against the applicant. \_\_\_\_\_\_

6.6 \_\_\_\_\_That the applicant has made a representation dated \_\_\_\_\_\_ (Annexure A-\_\_\_\_\_) to the respondent department.

6.7 That \_\_\_\_\_\_

GROUNDS

6.8 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 :-

(a) That the impugned action on the part of the respondents 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 \_\_\_\_\_\_

(c) That since the applicant has worked for such a long period on the post of \_\_\_\_\_, it gives legitimate and legal presumptions that the work being performed by the applicant is of permanent nature and it is incumbent upon the respondent department to regularise the applicant on the same post being fully eligible either against the vacant post which is existing in the respondent department or in the alternative create permanent post retrospectively from the date the applicant became eligible for regularisation.

(d) That even otherwise even as a daily waged worker, the applicant has discharged the same and similar duties as his regular counterpart. As such the applicant is entitled to be regularised from the due date with all the consequential benefits, ie; monetary as well as seniority etc.

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

(f) 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/action of the respondent \_\_ whereby the respondents have regularised the service of the applicant against the post of \_\_\_\_\_ wef \_\_\_\_\_ instead of on the post of \_\_\_\_\_ wef \_\_\_\_\_\_, being arbitrary, malafide and illegal;

(b) Direct the respondent to regularise the service of the applicant against the post of \_\_\_\_\_, wef \_\_\_\_\_ with all the consequential benefits and interest on the arrears @ 18% pa from the due date till the date of realisation;

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

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

Shimla Applicant

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

Verification:

I, **\_\_\_\_\_\_**, do hereby verify that the contents of paras 1 to 12 of the OA are correct and true to the best of my knowledge and no part of it is false and nothing material has been concealed therein.

Verified here at Shimla this **\_\_\_\_\_\_**.

**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 **\_\_\_\_\_\_**.

Deponent

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

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

Applicant

Versus

Respondents

**Index**

|  |  |  |  |
| --- | --- | --- | --- |
| Sl No | Annx | Particulars of Documents | Pages |
| 1 |  | Court Fees | [I] |
| 2 |  | Memo of Parties | 1 |
| 3 |  | OA | 2 |
| 4 |  | Affidavit |  |
| 5 | A-1 |  |  |
| 6 | A-2 |  |  |
| 7 | A-3 |  |  |
| 8 | A-4 |  |  |
| 9 |  | Power of Attorney |  |

Shimla Applicant

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

**Annexure A-\_\_\_\_**

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

OFFICE ORDER

Shri. \_\_\_\_\_\_ s/o Shri. \_\_\_\_\_\_ at present working on daily wages in Electrical Division No. \_\_\_\_\_ HPPWD \_\_\_\_\_\_ is hereby appointed as \_\_\_\_\_ in the pay scale of Rs. \_\_\_\_\_ on the terms specified below:-

1. He will draw pay of Rs. \_\_\_\_\_ per month in the above scale plus usual allowances sanctioned by the Govt. from time to time.

2. No traveling allowance will be paid to join the above appointment.

3. His services are liable to be terminated at any time by giving one month's notice from either side.

4. His appointment will be subject to the medical fitness from the Govt. Medical Officer.

5. He should give declaration whether he has not more than one living wife.

6. He is liable to serve in the entire HPPWD and outside where the agency of the HPPWD may exist.

7. He will be granted leave under the rules which are applicable to the temporary \_\_\_\_\_regular staff.

8. He is required to produce a certificate of approved character from the Ist Class Magistrate or from two Gazetted Officers known to him at least from three years before he can be permitted to join the Department.

9. If any declaration given or information furnished by the candidate proves to be false or if the candidate is found to have willfully superseded any material information, he will render himself liable to be removed from service and such other action as the Govt. ma deem fit.

10. If he is or has worked anywhere in any capacity should bring a clearance certificate from the authorities concerned before he can be permitted to join the appointment.

11. He is required to produce a certificate to the effect that the bonafide 'HIMACHALI' from the Magistrate Ist class before he can be permitted to join the Department.

12. He will be required to produce original certificate of qualifications and age before he can be allowed to join the duty.

13. His appointment to the post of subject to the further condition that he should have put in the minimum service of at least \_\_\_\_\_ years or more as on \_\_\_\_\_\_ on daily wages basis continuous with minimum 240 days in each calender year and also that he should be in the employment of this department on the date of issue of these orders. In case this proves to be incorrect/false on any subsequent verification at any stage, his services are liable to be terminated forthwith.

14. If he accepts the offer on the terms and conditions mentioned above he should report to the Executive Engineer, Electrical Division No. \_\_\_\_\_ HPPWD \_\_\_\_\_ for duties and further posting in the section immediately but not later than -\_\_\_\_\_ failing which the vacancy will be allotted elsewhere.

\_\_\_\_\_\_\_Superintending Engineer,

Electrical Circle,

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

To:

Shri \_\_\_\_\_\_\_

No.: PW-SE-Elect-Apptt (DW)\_ \_\_\_\_\_\_ dated \_\_\_\_\_\_\_

Copy forwarded to:-

1. The Engineer-in-Chief, HPPWD, \_\_\_\_\_ for information with reference to his letter No: PWE-133-11/96-ES-II\_\_\_\_\_ dated \_\_\_\_\_\_

2. The Executive Engineer, Electrical Division No. \_\_\_\_\_, HPPWD \_\_\_\_\_\_ - for information and necessary action. He is advised to obtain a photostat copy of educational qualification and Technical qualification certificate from the above named official before joining and the same may be sent to this office.

\_\_\_\_\_\_\_Superintending Engineer,

Electrical Circle,

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

True Copy