IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

W.P.No.7972 of 2020

S.Usha ... Petitioner

Vs.

1.The Union of India,
rep. By the Secretary to Government,
Ministry of Finance, Department of Revenue,
Central Board of Excise and Customs,
North Block, New Delhi – 110 001.

2.The Chief Commissioner of Customs,
No.1, Williams Road, Cantonment
Trichy – 1.

3.The Commissioner of Customs,
No.1, Williams Road, Cantonment
Trichy – 1.

4.The Assistant Commissioner of Customs,
Customs Division,
66, Beach Road,
Tuticorin.

5.The Central Administrative Tribunal,
City Civil Court Buildings,
High Court, Chennai – 600 104. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, calling for the records pursuant to the Impugned Proceedings of the dated 10.12.2019 in OA.No.1160 of 2014 of the 5th Respondent Tribunal, quash the same and direct the Respondents to grant temporary status to the Petitioner with consequential and attendant benefits.

For Petitioner	:	Mr.V.Parthiban
For Respondents	:	Mr.Rabu Manohar (for R1) Mr.V.Sundareswaran (for R2-4) Tribunal (R5)

ORDER

(Order of the Court was made by *S.M.SUBRAMANIAM, J.*)

The Writ Petition on hand has been instituted challenging the order passed by the Central Administrative Tribunal, Chennai Bench in O.A.No.1160 of 2014 dated 10.12.2019.

2. The petitioner was appointed as Casual Labourer/Contingent Employee. The petitioner made a claim that she is entitled for regularization and permanent absorption based on the length of services rendered as Casual Labourer/Contingent Employee. Since it was not considered by the Tribunal, the present Writ Petition came to be instituted.

3. Regarding the maintainability of the Original Application, the respondents raised a ground that the Original Application is barred by

limitation, as the petitioner was not in service from May, 2005 onwards. The Original Application was filed in the year 2014, after a lapse of about 9 years from the date of ousting of the services. Thus, the Original Application itself is hit by limitation. The Administrative Tribunals Act contemplates limitation.

4. Section 21 of the Administrative Tribunals Act, 1985 prescribes limitation, which reads as under,

> *21. Limitation. - (1) A Tribunal shall not admit an application,-*
> *(a)in a case where a final order such as is mentioned in clause (a) of sub-section (2) of section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;*
> *(b)in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.*
> *(2)Notwithstanding anything contained in sub-section (1), where-*
> *(a)the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the*

Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and

(b)no proceedings for the redressal of such grievance had been commenced before the said date before any High Court, the application shall be entertained by the Tribunal if it is made within the period referred to in clause (a), or, as the case may be, clause (b), of sub-section (1) or within a period of six months from the said date, whichever period expires later.

(3)Notwithstanding anything contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified in clause (a) or clause (b) of sub-section (1) or, as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period.

5. Thus, the Original Application filed before the Central Administrative Tribunal was time barred. More so, the application was filed after a lapse of about 9 years from the year of ousting of the services of the petitioner. Thus, we hold that the Original Application is not maintainable and ought to have rejected in limini.

6. The learned Central Government Panel Counsel would submit that scheme was framed for absorption of the Casual Labourer. However, the petitioner was not falling within the ambit of the scheme, since she was not in

employment when the scheme was implemented by the respondents. Therefore, her employment as Casual Labourer prior to 2005 cannot be considered for the purpose of grant of permament absorption in the respondent department.

7. In view of the above findings, we do not find any infirmity in respect of the order impugned passed by the Central Administrative Tribunal made in OA.No.1160 of 2014 dated 10.12.2019 and the same is confirmed. Consequently, the Writ Petition stands dismissed. No costs. The connected Miscellaneous Petitions, if any, are closed.

[S.M.S., J.] [M.J.R., J.]

06.12.2024

Index: Yes/No
Speaking/Non-speaking order
gd

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