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| **Cat daily wager temprary status**BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL TN AT CHENNAIO. A. No:\_\_\_\_\_\_\_\_/:\_\_\_\_\_\_\_\_\_/:\_\_\_\_\_\_\_\_Applicant VersusRespondents Application under Section 19 of the Central Administrative Tribunals ActChennai Applicant \_\_\_\_\_\_ Through, Advocate Respectfully Sheweth: Details of application: 1. Particulars of Orders Against Which this Application is Made: That this application is made against the action, rather inaction of the respondents whereby they are not conferring the temporary status on the applicant wef \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, ie; on completion of 206 days in a given calendar year and not granting other consequential benefits as prayed for herein below. The application is also against the arbitrary and unconstitutional clause in the Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Government of India, 1993 (A-1). 2. Jurisdiction of Tribunal: That the applicant declares that the subject matter of this application is within the jurisdiction of this Hon'ble Tribunal and it is competent to issue the directions to the respondents for full compliance. 3. Limitation: That the applicant further declares that the application is within the limitation period as prescribed in section 21 of the Central Administrative Tribunals Act 1985. 4. Facts of the Case: (4.1) That the applicant submits that he was initially engaged by the respondent department as \_\_\_\_\_\_\_\_\_\_\_\_\_ wef \_\_\_\_\_\_\_\_\_\_ (A-2 & A-3) in the exigencies of service initially for spell of one months thereafter giving extensions of 29 days and in such manner the applicant has completed more than 206 days in any given year as per the details annexed as Annexure A-4. It is humbly submitted that the applicant was engaged to perform the duties of regular nature and the applicant was recruited against the existing permanent post. (4.2) That ever since the appointment of the applicant, the applicant is performing his duties with the utmost devotion and sincerity to the entire satisfaction of his superior officers. (4.3) That it is also pertinent to mention here that the appointment of the applicant is against the permanent sanctioned post and the sanction for the said post is being granted by the competent authority from time to time (A-5). It is also respectfully submitted that the duties being performed by the applicant are same and similar to the duties of the regular hands. (4.4) That with the efflux of time the applicant has got vested rights to be conferred upon a temporary status in accordance with the rules and regulations and thereafter to be granted consequential benefits as well as to be regularized. (4.5) That accordingly the applicant as well as the other similarly situated persons have applied on :\_\_\_\_\_\_ (A-6) to the respondent department to grant temporary status as well as other consequential benefits. The said representation of the applicant was further routed to the appropriate authority by the respondent department. (A-7). (4.6) That however, the competent authority has turned down the representation of the applicant on \_\_\_\_\_\_\_\_\_\_\_\_\_ (A-8) and other similarly situated persons with the objection that the temporary status could be granted to only those casual workers who were in employment on the date of issue of the OM (A-1). (4.7) That it is also pertinent to submit here with that in the meantime some of the similarly situated persons have filed an OA No. :\_\_\_\_\_\_\_\_\_ titled as :\_\_\_\_\_\_\_\_\_\_\_ Vs :\_\_\_\_\_\_\_\_\_\_\_, wherein this Hon'ble Tribunal was pleased to direct the respondents to consider the representations of the applicants therein. As such the applicant was also waiting for the outcome of the consideration of the representations of those applicants. (4.8) That it is also pertinent to submit herewith that the respondent department has conferred benefits envisaged as under the annexure A-1 to the similarly situated persons at :\_\_\_\_\_\_\_\_\_ (A-9) and at :\_\_\_\_\_\_ (A-10). Thus the applicant can not be discriminated upon in such manner for grant of temporary status as well as the other consequential benefits. 5. Grounds for Relief: That 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 other: (5.1) That the clause 3 of the impugned OM (A-1) and the impugned orderA-8 are malafide, arbitrary, discriminatory and issued in utter violation of rules, regulations, and is violative of Article 14 and 16 of the Constitution of India and natural justice. (5.2) That the clause 3 of the Scheme (A-1) is arbitrary and unconstitutional and ultravires to the extent it makes the scheme applicable only to those casual labourers who were in employment on the date of issuance of the said scheme, ie; :\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.. (5.3) That the impugned cut-off date is unconstitutional and ultra vires and creates unreasonable classification between the Casual Labourers and has no nexus with the object of granting temporary status to the similarly situated casual labourers so as to avoid their exploitation and unfair labour practice. (5.4) That the respondent Union of India has created distinction between the Casual Labourers which is not based on any intelligible differentia which can distinguish Casual Labourers grouped together for the purpose of extending the benefits under the Scheme and has no nexus with the object of stopping unfair labour practice sought to be achieved, by the Scheme of 1993. (5.5) That the differentia on which the classification is founded is lacking in rational relation to the object sought to be achieved by the impugned scheme and the order under challenge. (5.6) That the impugned clause does not sub serve the purpose sought to be achieved. (5.7) That the classification in the impugned definition is against well settled principles laid down by the Hon'ble Supreme Court and other Hon'ble High Courts and this Hon'ble Tribunal in catena of cases. (5.8) That otherwise also it was incumbent upon the respondents to review and revise the it strength position of regular and permanent employee as the applicant has continued for a considerably long period justifying his regularization against the regular post which is existing in the respondent department as is clear from A-5. (5.9) That the respondent Union of India to is arbitrarily not amending or relaxing the provision of the Clause No. 4 under the provisions of clause No. 11 of the said Scheme, so as to make it applicable to all casual employees/labourers who have been engaged after the date of issuance of this scheme so as to bring the scheme in consonance with the Articles 14 and 16 of the Constitution of India; (5.10) That the respondents are stopped due to their own act, deed and conduct. The principle of promissory Stopple applies against the respondents. (5.11) That the impugned order of the respondents is also against the well settled principles laid down by the Hon'ble Supreme Court of India and this Hon'ble Tribunal in catena of cases. 6. Details of Remedies Exhausted: That the applicant has exhausted all the remedies available to him. Moreover, the matter being of urgent nature, the applicant has no other way but to approach this Hon'ble Tribunal for speedy and efficacious remedy for staying and quashing the impugned order. 7. Matters not Previously Filed or Pending with any Other Court: The applicant further declare that he has not filed any application, writ petition or suit regarding the matter in respect of which this application has been made in any court, other authority or any other Bench of this Hon'ble Tribunal. No such application, writ petition or suit is pending before any of them. 8. Reliefs Sought: That in view of the facts in para 4 above and the grounds in para 5 supra, your Lordship's humble applicant prays for the following reliefs: (a) Quash the impugned action of the respondents whereby they are not conferring the temporary status on the applicant wef \_\_\_\_\_\_\_\_\_\_\_\_\_, being arbitrary, malafide, discriminatory and illegal; (b) Direct the respondents to confer temporary status on the applicant wef \_\_\_\_\_\_\_\_\_\_\_, ie; on which date the applicant has completed more than minimum requisite numbers of days; (c) Direct the respondents to pay wages at daily rates with reference to the minimum of the pay scale (including DA, HRA and CCA and taking into account the benefits of increments at the same rate as applicable to a Group D employee for calculating pro-rata wages for every one year of service) for a corresponding regular Group D officials wef \_\_\_\_\_\_\_\_\_\_\_\_\_\_ along with arrears and interest thereon @ 18% pa till realization of the whole payments; (d) Direct the respondents grant the leave to the applicants on a pro-rata basis at the rate of one days for every 10 days of work as well as maternity/paternity leave; (e) Direct the respondents to treat the applicant at par with the Group D employees wef\_\_\_\_\_\_ \_\_ after granting temporary status wef \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and counting three years there from; for the purpose of contribution to the General Provident Fund and also pay festival advance etc; (f) Direct the respondents to pay productivity linked bonus to the applicant; (g) Quash the Clause 3 of the Department of Personnel & Training Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Government of India, 1993 to the extent it is made applicable to the casual labourers in employment of the Ministries/Departments of Government of India and their attached and subordinate officers, "on the date of issue of these orders", being arbitrary, irrational and unconstitutional by applying the principle of severability; (h) Direct the respondents to regularize the services of the applicant against the regular Group D posts against they are working for considerably long number of years; (i) Direct the respondent Union of India to amend or relax the provision of the Clause No. 4 under the provisions of clause No. 11 of the said Scheme, so as to make it applicable to all casual employees/labourers who have been engaged after the date of issuance of this scheme so as to bring the scheme in consonance with the Articles 14 and 16 of the Constitution of India; (j) Direct the respondents to produce all the records of the case along with their reply for perusal by this Hon'ble Tribunal; (k) Allow the cost of this application to the applicant. (l) Pass such other orders or reliefs as deemed fit and proper in the facts and circumstances of the case in the favour of the applicant and against the respondent . AND FOR THIS ACT OF KINDNESS, THE HUMBLE APPLICANT AS IN DUTY BOUND, SHALL EVER PRAY. 9. Interim Orders: No interim orders are being prayed for at this time. 10. N.A. 11. Particulars of Postal Order Towards Application Fees: 1. Postal Order Nos.:\_\_\_\_\_ Dated:\_\_\_\_\_\_ 2. Issuing P.O. : :\_\_\_\_\_\_ 3. Amount Rs : 50/- [Rs fifty only] 4. Payable at: :\_\_\_\_\_\_ 12. List of Enclosures: As per index. Chennai Applicants \_\_\_\_\_\_ Through Advocate **Verification:**I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, do hereby verify that the contents of paras 1 to 5 are true to my personal knowledge and paras 6 to 12 believed to be true on legal advice and that I have not suppressed any material fact. Verified here at Chennai this \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Applicant **BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL TN AT CHENNAI**O. A. No: \_\_\_\_\_\_/:\_\_\_\_\_\_\_\_/:\_\_\_\_\_\_\_\_Applicant VersusRespondents **Affidavit**I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, do hereby solemnly affirm and declare as under :- 1. That the accompanying application has been prepared under my instructions. 2. That the contents of paras 1 to 12 of the O.A. are correct and true to the best of my knowledge. 3. That I further solemnly affirm and declare that this affidavit of mine is true, no part of it is false and nothing material has been concealed therein Affirmed at Chennai this the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ . Deponent **BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL TN AT CHENNAI**M. A. No:\_\_\_\_\_\_\_/:\_\_\_\_\_\_ in O. A. No:\_\_\_\_\_ /:\_\_\_\_\_\_/:\_\_\_\_\_\_Applicants VersusRespondents/Non-applicants M. A. under Rule 4 (5) (a) of Central Administrative Tribunal (Procedure) Rules 1987Respectfully Sheweth: 1. That the applicants have filed the above mentioned O. A. jointly. 2. That on perusal of the above O. A. and documents attached therewith it is amply evident that all the applicants have common cause of action and common nature of relief prayed for by them and are desirous of joining in a single application as they have a common interest in the matter. 3. That interest of justice demands that the applicants are allowed to file the O. A. in the jointly in the interest of justice. 4. It is therefore, most respectfully prayed that this application may be allowed in the interest of justice and the applicants may be allowed to file the present OA jointly. Such other orders be also passed as deemed fit and proper in the facts and circumstances of the case. Chennai Applicants \_\_\_\_\_\_ Through, Advocate **Verification:**I, \_\_\_\_\_\_\_\_\_\_\_\_\_, do hereby verify that the contents of para 1 to \_\_\_\_\_\_\_ are true on legal advice and that have not suppressed any material fact. Chennai Applicant \_\_\_\_\_\_ Through, Advocate **BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL TN AT CHENNAI**M. A. No: \_\_\_\_\_\_\_/:\_\_\_\_\_\_ in O. A. No:\_\_\_\_\_\_\_/:\_\_\_\_\_\_/:\_\_\_\_\_\_Applicant VersusRespondents/Non-applicants Affidavit I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, do hereby solemnly affirm and declare as under:- 1. That I am duly authorized by the other applicants to file the present MA and am fully conversant with the facts of the case. 2. That the accompanying M. A. has been drafted under my instructions. 3. That the contents of paras 1 to 4 of the M. A. are correct and true to the best of my knowledge. 4. That I further solemnly affirm and declare that this affidavit of mine is correct and true, no part of it is false and nothing material has been concealed therein. Affirmed at Chennai this the\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. DEPONENT **BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL TN AT CHENNAI**M. A. No:\_\_\_\_\_\_\_/:\_\_\_\_\_\_ in O. A. No:\_\_\_\_\_\_\_/:\_\_\_\_\_\_/:\_\_\_\_\_\_Applicants VersusRespondents/Non-applicants M. A. under Rule 4 (5) (b) of Central Administrative Tribunal (Procedure) Rules 1987Respectfully Sheweth: 1. That the applicants have filed the above mentioned O. A. jointly. 2. That on perusal of the above O. A. and documents attached therewith it is amply evident that all the members of the applicant association have common cause of action and common nature of relief prayed for by them and are desirous of joining in a single application as they have a common interest in the matter. 3. That interest of justice demands that the applicants are allowed to file the O. A. through their Association in the interest of justice. 4. It is therefore, most respectfully prayed that this application may be allowed in the interest of justice and the applicants may be allowed to file the present OA through their Association. Such other orders be also passed as deemed fit and proper in the facts and circumstances of the case. Chennai Applicants \_\_\_\_\_\_\_ Through, Advocate **Verification:**I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, do hereby verify that the contents of para 1 to \_\_\_\_\_\_\_are true on legal advice and that have not suppressed any material fact. Chennai Applicant \_ Through, Advocate **BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL TN AT CHENNAI**M. A. No:\_\_\_\_\_\_\_/:\_\_\_\_\_\_ in O. A. No:\_\_\_\_\_\_\_/:\_\_\_\_\_\_/:\_\_\_\_\_\_Applicant VersusRespondents/Non-applicants AffidavitI, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, do hereby solemnly affirm and declare as under:- 1. That I am duly authorized by the other applicants to file the present MA and am fully conversant with the facts of the case. 2. That the accompanying M. A. has been drafted under my instructions. 3. That the contents of paras 1 to 4 of the M. A. are correct and true to the best of my knowledge. 4. That I further solemnly affirm and declare that this affidavit of mine is correct and true, no part of it is false and nothing material has been concealed therein. Affirmed at Chennai this the\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. DEPONENT  |  |