

**CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH****ORIGINAL APPLICATION NO.170/00592/2019,  
170/00636/2019, 170/00637/2019, 170/00638/2019,  
170/00639/2019, 170/00640/2019, 170/00641/2019, AND  
170/00642/2019**

ORDER RESERVED ON 08.12.2020

DATE OF ORDER: 08.02.2021

**CORAM:****HON'BLE SHRI SURESH KUMAR MONGA, MEMBER (J)****HON'BLE SHRI RAKESH KUMAR GUPTA, MEMBER (A)****OA No. 170/00592/2019**

M.P. Krishna,  
S/o Shri Putta Shetty,  
Aged about 46 years,  
Sweeper cum Watchman,  
O/o the Addl. Commissioner of Income Tax,  
Range-6(3), 4<sup>th</sup> Floor, BMTc Building,  
Koramangala, Bengaluru 560 095

....Applicant

(By Advocate Shri T.C. Gupta)

Vs.

1. Union of India,  
Through the Finance Secretary,  
Ministry of Finance, Department of Revenue,  
Government of India, New Delhi 110 001

2. Pr. Chief Commissioner of Income Tax,  
Karnataka & Goa Region,  
Queens Road, Bangalore 560 001

.....Respondents

(By Shri M.V. Rao, Senior Panel Counsel)

**OA No. 170/00636/2019**

Hanumantharayappa A.V.,  
S/o Shri Anjanappa,  
Aged about 39 years,  
Sweeper cum Watchman,  
O/o the Addl. Commissioner of Income Tax,  
Range-4(3), 4<sup>th</sup> Floor, BMTC Building,  
Koramangala, Bengaluru 560 095

....Applicant

(By Advocate Shri T.C. Gupta)

Vs.

1. Union of India,  
Through the Finance Secretary,  
Ministry of Finance, Department of Revenue,  
Government of India, New Delhi 110 001

2. Pr. Chief Commissioner of Income Tax,  
Karnataka & Goa Region,  
Queens Road, Bangalore 560 001

.....Respondents

(By Shri M.V. Rao, Senior Panel Counsel)

**OA No. 170/00637/2019**

G. Ganesh,  
S/o Shri Gangappa,  
Aged about 47 years,  
Sweeper cum Watchman,  
O/o the Addl. Commissioner of Income Tax,  
Range-1(2), 1<sup>st</sup> Floor, BMTC Building,  
Koramangala, Bangalore 560 095

....Applicant

(By Advocate Shri T.C. Gupta)

Vs.

1. Union of India,  
Through the Finance Secretary,  
Ministry of Finance,  
Department of Revenue,  
Government of India,  
New Delhi 110 001

2. Pr. Chief Commissioner of Income Tax,

Karnataka & Goa Region,  
Queens Road, Bangalore 560 001

.....Respondents

(By Shri M.V. Rao, Senior Panel Counsel)

**OA No. 170/00638/2019**

Daniel J.A.,  
S/o Shri A. Jeyaraj,  
Aged about 43 years,  
Sweeper cum Watchman,  
O/o the Commissioner of Income Tax,  
(International Taxation), 7<sup>th</sup> Floor, BMTC Building,  
Koramangala, Bangalore 560 095

....Applicant

(By Advocate Shri T.C. Gupta)

Vs.

1. Union of India,  
Through the Finance Secretary,  
Ministry of Finance, Department of Revenue,  
Government of India, New Delhi 110 001

2. Pr. Chief Commissioner of Income Tax,  
Karnataka & Goa Region,  
Queens Road, Bangalore 560 001

.....Respondents

(By Shri M.V. Rao, Senior Panel Counsel)

**OA No. 170/00639/2019**

Abdul Sameel A  
S/o Shri Abdul Basheer,  
Aged about 44 years,  
Sweeper cum Watchman,  
O/o the Commissioner of Income Tax,  
(Appeal)-9, 7<sup>th</sup> Floor, BMTC Building,  
Koramangala, Bangalore 560 095

....Applicant

(By Advocate Shri T.C. Gupta)

Vs.

1. Union of India,  
Through the Finance Secretary,  
Ministry of Finance, Department of Revenue,  
Government of India, New Delhi 110 001

2. Pr. Chief Commissioner of Income Tax,  
Karnataka & Goa Region,  
Queens Road, Bangalore 560 001

.....Respondents

(By Shri M.V. Rao, Senior Panel Counsel)

**OA No. 170/00640/2019**

S. Ramesh,  
S/o Shri Shivananjaiah,  
Aged about 43 years,  
Sweeper cum Watchman,  
O/o the Addl. Commissioner of Income Tax,  
(TP), Range-1, 3<sup>rd</sup> Floor, BMTC Building,  
Koramangala, Bangalore 560 095

....Applicant

(By Advocate Shri T.C. Gupta)

Vs.

1. Union of India,  
Through the Finance Secretary,  
Ministry of Finance, Department of Revenue,  
Government of India, New Delhi 110 001

2. Pr. Chief Commissioner of Income Tax,  
Karnataka & Goa Region,  
Queens Road, Bangalore 560 001

.....Respondents

(By Shri M.V. Rao, Senior Panel Counsel)

**OA No. 170/00641/2019**

Shiva Kumar,  
S/o Shri Bore Gowda,  
Aged about 45 years,  
Sweeper cum Watchman,  
O/o the Addl. Commissioner of Income Tax,  
Range-2(3), 4<sup>th</sup> Floor, BMTC Building,  
Koramangala, Bangalore 560 095

....Applicant

(By Advocate Shri T.C. Gupta)

Vs.

1. Union of India,  
Through the Finance Secretary,  
Ministry of Finance, Department of Revenue,

Government of India, New Delhi 110 001

2. Pr. Chief Commissioner of Income Tax,  
Karnataka & Goa Region,  
Queens Road, Bangalore 560 001

.....Respondents

(By Shri M.V. Rao, Senior Panel Counsel)

**OA No. 170/00642/2019**

Shantharaju K,  
S/o Shri Kalaiah,  
Aged about 42 years,  
Sweeper cum Watchman,  
O/o the Pr. Chief Commissioner of Income Tax,  
2<sup>nd</sup> Floor, C.R. Building, Queen's Road,  
Bangalore 560 095

....Applicant

(By Advocate Shri T.C. Gupta)

Vs.

1. Union of India,  
Through the Finance Secretary,  
Ministry of Finance, Department of Revenue,  
Government of India, New Delhi 110 001

2. Pr. Chief Commissioner of Income Tax,  
Karnataka & Goa Region,  
Queens Road, Bangalore 560 001

.....Respondents

(By Shri M.V. Rao, Senior Panel Counsel)

**ORDER**

**PER: SURESH KUMAR MONGA, MEMBER (J)**

The Original Application Nos. 170/00592/2019, 170/00636/2019, 170/00637/2019, 170/00638/2019, 170/00639/2019, 170/00640/2019, 170/00641/2019 and 170/00642/2019 are taken up together for disposal as a common question of law and fact is involved in all these cases. With the consent of learned counsels for the parties, the facts are extracted from

Original Application No. 170/00592/2019 and the said case has been treated as a lead case.

2. Pleaded case of the applicants is that they are working as casual labourers since 01.08.1997. They were granted temporary status with effect from 13.6.2000. They have completed more than 21 years of service in the Income Tax Office, Bangalore. As they have completed more than 10 years of continuous service, therefore, they are eligible to be considered for regularization of their services. They had earlier filed Original Application No. 477/2010 before this Tribunal claiming therein the regularization of their services while relying upon the respondents' scheme dated 10.09.1993 and the orders passed by the authorities in the Income Tax Offices of Chennai and Ghaziabad in the cases of similarly situated persons. This Tribunal vide order dated 30.09.2011 directed the respondents to consider their cases for appropriate relief by applying the same principles as were applied in the cases of their counterparts in Chennai and Ghaziabad offices. Dissatisfied with the said order, the respondents preferred Writ Petition No. 9174/2012 before the Hon'ble High Court of Karnataka at Bangalore. The Hon'ble High Court vide its order dated 29.11.2013 had quashed the order passed by this Tribunal and directed the respondents to reconsider the issue while keeping in view the various circulars and judgments including the judgments of the Hon'ble Supreme Court in **State of Gujarat and Others vs PWD Employees Union and Others** 2013-III-LLJ-665 (SC) and **Secretary, State of Karnataka and Others vs. Umadevi and Others** ILR 2006 KAR 2607.

Pursuant thereto, the respondents passed an order dated 21.03.2014 and did not find the applicants eligible for regularization of their services as they had not completed 10 years of service as on 10.04.2006. It has further been averred that the Hon'ble Supreme Court in its judgment dated 01.08.2018 in Civil Appeal No. 7423-7429/2018 **Narendra Kumar Tiwari vs. State of Jharkhand and Others**, having considered the decision of the Constitution Bench in **Umadevi** (*supra*) and a subsequent judgment in the matter of **State of Karnataka and Others vs M.L. Kesari and Others** (2010) 9 SCC 247 is of the view that regularization rules must be given a pragmatic interpretation. While placing reliance upon **Narendra Kumar Tiwari** (*supra*), the applicants herein have stated that they are eligible to be considered for regularization from 2007-2008, the date when they had completed 10 years in service. The applicants have thus prayed for issuance of a direction to consider their cases for regularization of their services.

3. The respondents by way of filing a joint reply have joined the defence and have opposed the applicants' claim. It has been stated that the applicants are working as casual labourers from 1997 onwards and they were granted temporary status from 13.6.2000. It has further been averred that pursuant to the orders passed by the Hon'ble High Court the applicants' cases have been considered by the respondents and they have not been found eligible for regularization of their services because they had not completed 10 years of service on cut off date i.e. 10.04.2006 as held in the **Umadevi's** case (*supra*). The applicants' reliance on the decision of the

Hon'ble Supreme Court in **Narendra Kumar Tiwari** (*supra*) is misplaced as in the said case, the employees were from State of Jharkhand which came into existence only on 15.11.2010, whereas, the cut off date was fixed as 10.04.2006. It has further been averred that the Hon'ble Supreme Court in **M.L. Kesari** (*supra*) has held that only daily wage workers who had put in 10 years of continuous service as on 10.04.2006 should be considered for regularization. Since the applicants had less than 10 years of service as on the cut off date, therefore, the question of their regularization in services does not arise.

4. The applicants by way of filing an additional rejoinder statement dated 11.12.2019 have further stated that this Tribunal has allowed OA No. 128/2008, 145/2008 and 1025/2016 and the judgments rendered in those cases have been affirmed by the Hon'ble High Court of Karnataka. They have reproduced the date/year of the appointment of the applicants in those cases and have also claimed parity with them.

5. Heard learned counsels for the parties.

6. Shri T.C. Gupta, learned counsel for the applicants, while opening his arguments submitted that the applicants have completed more than 21 years of service. They were granted temporary status by the respondents on 13.06.2000. The respondents cannot take work from them as casual labourers for all times to come. While placing reliance upon **Narendra Kumar Tiwari** (*supra*) and **Ravi Verma and Others vs Union of India and Others** (Civil Appeal No. 2795-2796/2018 arising out of SLP (Civil) No.

33258-33259/2015 decided on 13.03.2018), learned counsel further submitted that the applicants are entitled to be regularized in services on completion of 10 years in service.

7. Per contra, Shri M.V. Rao, learned counsel representing the respondents, submitted that since the applicants have not completed 10 years in service on 10.04.2006, therefore, they cannot claim regularization in service in view of **Umadevi's** case (*supra*). Learned counsel further submitted that even the ratio of **Narendra Kumar Tiwari** (*supra*) cannot be applied to the case in hand as the State of Jharkhand came into existence on 15.11.2010 and, therefore, in peculiar circumstances, the Hon'ble Supreme Court had ordered for regularization of the services of the applicants therein from the date of promulgation of the Regularization Rules.

8. We have considered the rival contentions of learned counsels for the parties and have also perused the record.

9. Indisputably, the applicants have been working as casual labourers with the respondent department since the years 1997-1998. They were granted temporary status with effect from 13.06.2000. Since the year 1997-1998, they are continuing in service uninterruptedly. Earlier they had filed Original Application No. 477/2010 before this Tribunal which was disposed of on 30.09.2011 and the following directions were issued:

*"9. We have heard both the learned counsel and gone through the records. In view of the relief granted to the temporary status Group 'D' employees by the Chief Commissioner of Income Tax at Chennai and*

*Ghaziabad, by applying the Scheme dated 10.9.1993, by granting appropriate relaxation, we direct respondent No. 3 herein, to apply the same principles to the present 10 applicants as are applied in cases mentioned at para 4 (a), (b) and (c) and the case of Muniswamy, and grant appropriate relief along with a speaking order within 2 months from the date of receipt of a copy of this order.”*

10. Aggrieved by the said order, the respondent department had preferred Writ Petition No. 9174/2012 (S-CAT) before the Hon'ble High Court of Karnataka at Bengaluru. The said Writ Petition finally came to be disposed of on 29.11.2013 and, while setting aside the order dated 30.09.2011 passed by this Tribunal, a direction was issued to respondent department to reconsider the prayer of the applicants while keeping in mind the various circulars issued by the Central Government and the judgments rendered by the Hon'ble Supreme Court in **PWD Employees Union and Others** (*supra*) and **Umadevi** (*supra*). Pursuant to said directions issued by the Hon'ble High Court, the respondent department had reconsidered the applicants' case and declined the same by observing that since they have not completed 10 years of continuous service as on 10.04.2006, therefore, they cannot be regularized in service.

11. The plea raised by Shri M.V. Rao, learned counsel representing the respondents, supporting the view of the respondent department that since the applicants have not completed 10 years of service as on 10.04.2006, therefore, they cannot be regularized in services, in our opinion cannot be countenanced in the peculiar facts and circumstances of the case in hand. A

perusal of the order dated 21.03.2014 (Annexure A3) issued by the Chief Commissioner of Income Tax, Bengaluru – I pursuant to order passed by the Hon'ble High Court reveals that on an earlier occasion, the applicants had submitted their representations in the year 2006 requesting therein for regularization of their services. The Chief Commissioner of Income Tax vide memorandum dated 13.12.2006 declined the applicants' request stating therein that their cases are not covered under the Grant of Temporary Status Scheme, 1993 (hereinafter called as '1993 scheme') and, therefore, they cannot be regularized in service. The order dated 21.03.2014 further reveals that there was a complete ban on fresh recruitment in the department since the year 1999 and, in those circumstances, the then Chief Commissioner of Income Tax vide his order dated 13.06.2000 had accorded temporary status to applicants herein. It has further been noted in the said order that the applicants were on the registers of the Employment Exchanges in and outside Bangalore. The consolidated wages were fixed at Rs. 2550/- per month being the minimum of the scale of the then 'Group-D employees'.

12. In the facts and circumstances as noticed by the Chief Commissioner of Income Tax, Bangalore – I in his order dated 21.03.2014, an irresistible conclusion can be drawn that the applicants' appointments in the department were not illegal. Those were irregular initially, but later on, because of the ban on fresh recruitments in the department, temporary

status was accorded to them, which made them entitled to have protection of Clause (8) of the '1993 Scheme' which stipulates as under:

"8. Procedure for filling up of Group 'D' posts

*(i) Two out of every three vacancies in Group 'D' cadres in respective offices where the casual labourers have been working would be filled up as per extant recruitment rules and in accordance with the instructions issued by Department of Personnel and Training from amongst casual workers with temporary status. However, regular Group 'D' staff rendered surplus for any reason will have prior claim for absorption against existing/future vacancies. In case of illiterate casual labourers or those who fail to fulfill the minimum qualification prescribed for post, regularisation will be considered only against those posts in respect of which literacy or lack of minimum qualification will not be a requisite qualification. They would be allowed age relaxation equivalent to the period for which they have worked continuously as casual labourer."*

13. In our considered view, after conferring the temporary status upon the applicants on 13.06.2000, it was incumbent upon the respondents to consider their cases for regularization of their services against 2 out of every 3 vacancies in Group 'D' cadre. However, the said right has continuously been ignored and they have been made to suffer for years together in one litigation or the other.

14. In **Ravi Verma** (*supra*), the Hon'ble Supreme Court was dealing with almost an identical situation where the applicants therein were initially appointed as casual employees in the Income Tax Department in the year 1993-94 and they had been working continuously since then. On 30.01.2004, with respect to other similarly situated employees, temporary

status was granted by the respondent department. The Respondent No. 4 therein had recommended the cases of applicants therein on 30.12.2004 for according temporary status/regularization. The same recommendation was again made on 14.6.2005. In the meantime, the judgment in **Umadevi's** case (*supra*) was pronounced by the Hon'ble Supreme Court. After the pronouncement of said judgment, the cases of applicants therein were again recommended for regularization/temporary status on 01.06.2007 as their services were required for the smooth functioning of the office of the Commissioner of Income Tax. The said recommendation was further followed by recommendations dated 01.01.2008 and 31.01.2008. However, the services of the applicants therein were not regularised, though the Chief Commissioner of Income Tax, UP West, Ghaziabad had regularised similarly situated 88 casual employees on 30.01.2009 and the Chief Commissioner Income Tax, Odisha had also regularised similarly situated 8 employees on 12.03.2009. On 01.06.2009, the Applicants No. 1, 2 and 3 therein were sanctioned minimum of the pay scale of Group 'D' employees with Dearness Allowance in accordance with DOPT circular dated 31.05.2004 and in terms of the order of CCIT dated 07.11.2007 and 06.12.2007 on conferring temporary status on the employees. The Hon'ble Supreme Court has further noticed that the Chief Commissioner of Income Tax, Kolkata has regularized 111 similarly situated casual employees on 22.09.2009 and the Chief Commissioner of Income Tax, Lucknow has also regularised 59 similarly situated casual employees on 22.01.2010. Still further, 35 employees in the office of the Chief Commissioner of Income

Tax, Patna were regularized on 20.8.2010. After taking note of all these facts and the **Umadevi's** case (*supra*), the Hon'ble Supreme Court has issued a direction to respondents to regularize the services of the applicants therein with effect from 01.07.2006.

15. In our considered view, the case of the applicants herein is squarely covered by the judgment rendered by the Hon'ble Supreme Court in **Ravi Verma** (*supra*). Though the Hon'ble Supreme Court in paragraph 53 of the judgment in **Umadevi** (*supra*) has observed that the Union of India, the State Governments and their instrumentalities should take steps to regularize, as a one time measure, the services of irregularly appointed employees who have worked for ten years or more in duly sanctioned posts but subsequently while finding exceptional circumstances in **PWD Employees Union** (*supra*) and **Narendra Kumar Tiwari** (*supra*) directions were issued to the respondents therein to consider the cases of employees for regularization of their services.

16. Similar kind of exceptional circumstances have been noticed by the Hon'ble Supreme Court in **Ravi Verma** (*supra*) wherein the employees were initially recruited in the year 1993-94 and they were granted temporary status and, while granting parity to them with their counterparts working in different zones, a direction was given to regularize their services with effect from 01.07.2006.

17. In CWP No. 27795/2013 titled as **Devi Dass vs Union of India and**

**Others**, the Hon'ble High Court of Punjab and Haryana has observed as follows:

*"We are very much convinced that the petitioner has a case. It appears that the respondent had adopted unfair labour practice like a private institution employing the petitioner on a contract basis and not regularizing him for the past 26 years. We are in a welfare state. Such practice cannot be approved by Court of law and justice. The petitioner, whatever be the merit of the case, shall be regularized within one month from the date of this order."*

18. A similar order was passed by Hon'ble High Court of Punjab and Haryana in CWP No. 24963/2014 in case titled as **Sarup Singh vs Union of India and Others** in which the petitioner had put in 22 years of service as a driver and had not been regularized. The orders in CWP No. 24963/2014 were subsequently upheld by the Hon'ble Supreme Court where the SLP filed by the respondents was dismissed on 29.08.2016.

19. In the conspectus of discussions made in the foregoing paragraphs, the present Original Applications deserve to be allowed.

20. Accordingly, the Original Applications are allowed and a direction is issued to the respondents to consider the applicants' cases for regularization of their services from the dates they have completed 10 years in service with all consequential benefits. Let the respondents comply with this order within a period of 3 months from the date of receipt of it's certified copy.

21. There shall be no orders so as to costs.

**(RAKESH KUMAR GUPTA)**  
**MEMBER (A)**

**(SURESH KUMAR MONGA)**  
**MEMBER (J)**

/ksk/