

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application Nos.040/00395/2016,
040/00050/2017 & 040/00218/2017

Date of Order: This, the 26th day of June 2020

THE HON'BLE SMT. MANJULA DAS, MEMBER (J)
THE HON'BLE MR. NEKKHOMANG NEIHSIAL, MEMBER (A)

1. O.A. No. 040/00395/2016



1. Sri Dijen Kalita
S/o Late Krishna Kanta Kalita
C/o Sri Karuna Kanta
Kanaklata Path, Krisnapur
Helipad Area, H.No. 51
P.O. – Beltola, Guwahati – 29.
2. Sri Ranjan Bhattacharya
S/o Late Nanada Dulal Bhattacharya
R/o Patarkuchi, Beltola
Basistha Chariali, P.O. – Basistha
Guwahati, Pin – 29.
3. Sri Ashok Kumar Roy
S/o Late Krishna Kanta Kalita
R/o Bishnu Rabha Path
Karmapur, P.O. Basistha
Guwahati, Pin – 29.
4. Sri Binod Chetri
S/O Surya Bahadur Chetri
R/o Near Dispur Law College
Qtr. 4, Block No. 28
Dispur, Kamrup, Guwahati – 6.
5. Sri Dutta Ram Giri
S/o Late Bijali Giri
R/o Bijoynagar, Near Basistha Mandir
P.O. – Basistha, Guwahati, Guwahati – 29.

6. Sri Rameswar Kumar
S/o Barun Chandra Kumar
R/o Village – Halikuchi, P.O. – Tulsibari
District – Kamrup, Assam.
7. Sri Joy Balmiki
S/o Late Laiji Balmiki
R/o Last Gate, P.O. – Dispur, Guwahati – 6.
8. Sri Santosh Mohan Singh
S/o Late Dadan Singh
R/o Krishnagar (Japorigog)
P.O.- Dispur, District – Kamrup, Guwahati-29.
9. Sri Prankanta Arya
Son of Late Karuna Arya
C/o Jadav Medhi, House No. 1, Krishnapur
Near A.G. Office, Beltola, Guwahati – 29.



...Applicants

By Advocates: Sri C.K. Sharma, Sri H.K. Das, Sri A. Lal,
Sri M.C. Bora and Sri U. Dutta

-Versus-

1. The Union of India
Represented by Comptroller and Auditor
General of India, 9 Din Dayal Upadhyaya
Marg, New Delhi – 110124.
2. The Accountant General (A&E), Assam
Moidamgaon, Beltola, Guwahati-29, Assam.
3. The Principal Accountant General (Audit), Assam
Moidamgaon, Beltola, Guwahati-29, Assam.
4. The Deputy Accountant General
(Administration), O/o the Accountant General
(A&E), Moidamgaon, Beltola, Guwahati-29, Assam.

...Respondents

By Advocate: Sri C. Baruah, AG Adv.

2. O.A. No. 040/00050/2017

1. Sri Kailash Das
Son of Sri Dharma Kanta Das
C/o Sri Pranjal Sarma
House No. 11, Beltola Tiniali
Bhetapara Road, Krishna Arjun Path
Bye Lane No. 5, Guwahati – 28.
2. Sri Kabindra Das
S/o Late Suren Das
Resident of Beltola Tiniali
Bishnu Rabha Path, Bye Lane No. 5
P.O. – Basistha, Guwahati – 29.
3. Sri Mohan Sarma
S/o Late Rajen Sarma
R/o Patarkuchi, Beltola, Basistha Chariali
P.O. – Basistha, Guwahati – 29.
4. Sri Jishing Rabha
Son of Nayan Rabha
Resident of H. No. 28, Barpathar, Pilingkata
Basistha, Kamrup, Guwahati – 29, Assam.
5. Sri Bikash Das
Son of Samiran Das, Resident of H. No. 4
Maidamgaon, Krishnapur
A.G. Office Road, Beltola, Guwahati – 28.
6. Sri Basanta Konwar
S/o Late Prafulla Konwar
R/o Hatigaon, Near Lakhimi Nagar
A.G. Quarter Complex, Guwahati – 6.



...Applicants

By Advocates: Sri C.K. Sharma, Sri H.K. Das, Sri A. Lal,
Sri M.C. Bora and Sri U. Dutta
-Versus-

1. The Union of India
Represented by Comptroller and Auditor
General of India, 9 Din Dayal Upadhyaya
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2. The Accountant General (A&E), Assam
Moidamgaon, Beltola, Guwahati-29, Assam.
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Moidamgaon, Beltola, Guwahati-29, Assam.
4. The Deputy Accountant General
(Administration), O/o the Accountant General
(A&E), Moidamgaon, Beltola
Guwahati-29, Assam.

...Respondents

By Advocate: Sri C. Baruah, AG Advocate



3. O.A. No. 040/00218/2017

Sri Pranjal Roy
Son of Sri Paddu Roy
House No. 25, Rukmini Nagar
Guwahati, P.O. – Dispur, Pin – 781036.

...Applicant

By Advocates: Sri C.K. Sharma, Sri H.K. Das, Sri D.J. Das
Sri U. Pathak

-Versus-

1. The Union of India
Represented by Comptroller and Auditor
General of India, 9 Din Dayal Upadhyaya
Marg, New Delhi – 110124.
2. The Accountant General (A&E)
Assam, Moidamgaon, Beltola
Guwahati-29, Assam.
3. The Principal Accountant General (Audit)
Assam, Moidamgaon, Beltola
Guwahati-29, Assam.

4. The Deputy Accountant General
 (Administration), O/o the Accountant General
 (A&E), Moidamgaon, Beltola
 Guwahati-29, Assam.

...Respondents

By Advocate: Sri C. Baruah, AG Advocate

Date of Hearing: 30.01.2020 **Date of Order: 26.06.2020**

O R D E R

NEKKHOMANG NEIHSIAL, MEMBER (A):-



These three cases i.e. **Nos.040/00395/2016, 040/00050/2017 & 040/00218/2017** are analogous and similar question of law and facts are involved. Thus, they are being examined, considered and decided by this common order.

2. In these three cases, all the applicants pray for a direction upon the respondents to regularise their services with retrospective effect from the date of regularization of other similarly situated persons along with all consequential benefits.

3. On the specific plea of the learned counsel for the applicant, respondent authorities were directed not to dispense with the services of the applicants during

the pendency of the case vide this Tribunal's orders dated 06.10.2016 in O.A. No. 040/00395/2016, dated 09.03.2017 in O.A. No. 040/00050/2017 and dated 10.08.2017 in O.A. No. 040/00218/2017 respectively.

4. The respondent authorities submitted their written statement on 08.02.2017 in O.A. No. 040/00395/2016, on 17.08.2017 in O.A. No. 040/00050/2017 and on 04.12.2017 in O.A. No. 040/00218/2017.



5. Facts of the case are that all the applicants have been engaged as casual labourer from the date as indicated below against the name:-

Sl. No.	Name	Date of Appointment	Applicant in:
1	Sri Dijen Kalita	12.11.2003	O.A. 395/2016
2	Sri Ranjan Bhattacharya	22.04.2003	O.A. 395/2016
3	Sri Ashok Kumar Roy	01.07.2007	O.A. 395/2016
4	Sri Binod Chetri	14.08.2003	O.A. 395/2016
5	Sri Dutta Ram Giri	19.08.2002	O.A. 395/2016
6	Sri Rameswar Kumar	07.08.2003	O.A. 395/2016
7	Sri Joy Balmiki	24.04.1997	O.A. 395/2016
8	Sri Santosh Mohan Singh	14.08.2003	O.A. 395/2016
9	Sri Prankanta Arya	01.01.2004	O.A. 395/2016
10	Sri Pranjal Roy	01.11.2010	O.A. 218/2017
11	Sri Kailash Das	24.02.2009	O.A. 50/2017
12	Sri Kabindra Das	24.02.2009	O.A. 50/2017
13	Sri Mohan Sarma	01.01.2010	O.A. 50/2017
14	Sri Jishing Rabha	03.11.2010	O.A. 50/2017
15	Sri Bikash Das	02.11.2010	O.A. 50/2017
16	Sri Basanta Konwar	04.09.2010	O.A. 50/2017

6. The basic grievance of the applicants is that when they have been engaged by the respondent authorities, some of other individuals have been selectively given regular appointment denying the benefits of regularization to the present applicants.

According to the applicants, all of them have completed 10 years of engagement as on the date of filing these O.As. Therefore, they are entitled for the benefits as envisaged by the Hon'ble Apex Court in the case of **Secretary, State of Karnataka and Ors. Vs. Uma Devi and Ors. (2006) 4 SCC 1 at para 53.**



7. However, the respondent authorities submitted that after due process and following the laid down procedure of obtaining their names through District Employment Exchange, have found them not fit for selection for regular employment. There was no specific ground for giving them appointment having failed in the selection process. They also highlighted that category wise vacancies are to be filled up by the respondent authorities under SC, ST, OBC and Ex-Servicemen and accordingly, all the applicants could not be

accommodated due to the limitations of the category wise vacancies.

8. During the process of hearing, an officer from the respondent authorities i.e. Accountant General (A&E), Assam, Moidamgaon, Beltola, Guwahati, Assam was directed to appear along with relevant records regarding regularization of casual labourers/employees during the period from 2009 to till date as well as vacancy position in the respective years.



9. After giving reasonable opportunities to both the parties, final hearing was done on 30.01.2020. During the hearing, Sri C.K. Sharma, Advocate assisted by Sri H.K. Das, learned counsel for the applicants made detail submissions and arguments on behalf of the applicants. The argument was basically based on the logic of the judgment of the Hon'ble Apex Court in the case of **Secretary, State of Karnataka and Ors. Vs. Uma Devi and Ors. (2006) 4 SCC 1 at para 53**, wherein those casual labourers who have completed 10 years as 10.04.2006 and working as on date were to be given regularization as one time measure. According to the learned

counsel, some of the present applicants have been engaged w.e.f. 2002 and some of the other applicants were engaged after 2006. But as on date, they all have completed 10 years and more. He also drew the attention of the Court to the order of Hon'ble Supreme Court in the case of **Narendra Kumar Tiwari and ors. Vs. State of Jharkhand and Ors. (2018) 8SCC 238** where the



Hon'ble Apex Court has held as under:-

"Under the circumstances, we are of the view that the Regularization Rules must be given a pragmatic interpretation and the appellants, if they have completed 10 years of service on the date of promulgation of the Regularization Rules, ought to be given the benefit of the service rendered by them. If they have completed 10 years of service they should be regularized unless there is some valid objection to their regularization like misconduct etc."

The learned counsel for the applicants also cited the judgment of **Union of India and Ors. Vs. Central Administrative Tribunal and Ors.** reported in **(2019) 4 SCC 290**. Operative portion of the said judgment is being reproduced below:-

"The one-time exercise should consider all daily-wage/ad hoc/casual employees who had put in 10 years of continuous service as on 10-4-2006 without availing the protection of any interim orders of courts or tribunals. If any employer had held the one-time exercise in terms of para 53 of Umadevi (3), but did not consider the cases of some employees who were entitled to the benefit of para 53 of

Umadevi (3), the employer concerned should consider their cases also, as a continuation of the one-time exercise. The one-time exercise will be concluded only when all the employees who are entitled to be considered in terms of para 53 of Umadevi (3), are so considered."

10. Subsequently, the learned counsel for the applicants submitted copies of judgments along with the case of **Malathi Das (Retired) now P.B. Mahishy and Ors.**



Vs. Suresh and Ors. We have gone through the judgments of the Hon'ble Apex Court. The main point of the submission of the learned counsel for the applicants was that since the principle of 10 years has been accepted by the Hon'ble Supreme Court in the above cited cases, the respondent authorities are legally bound to regularise the services of the present applicants on completion of 10 years irrespective of their actual dates of engagement.

11. We have also gone through the copies of the judgment of Hon'ble Apex Court rendered in the case of **Narendra Kumar Tiwari and Ors. Vs. State of Jharkhand and Ors. (supra)** which was upheld by the Hon'ble High Court of Jharkhand. In that case, the applicants were initially engaged and completed 10 years of services as on April 2006. The stand taken by the State of Jharkhand



was that since the Jharkhand State came into being only in 2000 and hence the applicants have not completed 10 years of service with the State of Jharkhand on the crucial date of 10th April 2006, they were not in a position to grant them regular appointment. After examining the stand of State of Jharkhand, the Hon'ble Supreme Court came to the conclusion that even if the State was created only in 2000 and if the applicants have completed 10 years of engagement as on the crucial date, they would be entitled to the benefits under the judgment of **Uma Devi's case (supra)**. This judgment of the Hon'ble Supreme Court was specific to this situation in respect of the applicants vis-a-vis the date of creation of separate State of Jharkhand. We found that the Hon'ble Supreme Court has not stipulated the general standard period of 10 years for regularization in all cases. As such, the case of **Narendra Kumar Tiwari and Ors. Vs. State of Jharkhand and Ors. (supra)** is found not applicable in respect of these applicants.

12. As regards to the judgment in respect of **Union of India and Ors. Vs. Central Administrative Tribunal and Ors (supra)**, it is interpretive in nature in regard to the 'one

time exercise'. It only says that one-time exercise will be considered completed when all the casual labourers who are entitled to be considered in terms of para 53 of **Uma Devi (supra)** are considered and covered. The order clearly stipulates that one-time exercise may extend more than once but consideration is only available to those who were eligible or entitled to be considered under para 53 of **Uma Devi (supra)**. However, in the case of **Malathi Das (supra)**, the matter was of applying the principle of parity. During the pendency of CCC No. 669 of 2006, the claim of regularization of the respondents was rejected by specific orders passed on the ground that the claimants do not fulfil the conditions for regularization as laid down by the Hon'ble Supreme Court in the case of **Uma Devi (supra)**. As such, this case is also no relevant and not applicable to the present applicants.

13. We have carefully considered the above submissions of both the parties. As could be seen from the facts of the case, none of applicants have fulfilled the conditions as stipulated in the case of **Uma Devi (supra)**. Citing the above judgments of Hon'ble Apex Court in support of regularization is found to be not tenable. We



found that the O.A. is devoid of merit and liable to be dismissed. Accordingly, same is hereby dismissed.

14. However, respondents are at liberty to give regular appointment to the applicants under other relevant Government's administrative instructions and orders, if any.

15. There shall be no order as to costs.



(NEKKHOMANG NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)

PB