

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCHALLAHABAD.

Dated : This the 4th day of June 2003.

Original Application no. 1410 of 2001

Hon'ble Mr. A.K. Bhatnagar, Member J.

1. Avinash Singh, S/o Sri Arun Kumar Singh,
R/o Church Compound, Sidhi Bazar,
Agra.
2. Vimal Kumar, S/o Sri Raghuvir Singh,
R/o Village Imaliya Vardan,
Agra.
3. Subhash, S/o Sri Mimmu Prasad,
R/o Kaushalpur, Bye-pass Road,
Agra.
4. Satya Dev, S/o Munshi Lal,
R/o 23/276, Wazipura, Agra.
5. Jitendra Kumar Saxena, S/o late Sri Gursaran Saxena,
R/o B-32, Aaykar Colony, Hari Parwat, Agra
6. Raj Kumar, S/o Shiv Charan Lal,
R/o Vidya Nagar, Patpari, Naglapadi,
Agra.
7. Satyavir Singh, S/o late Sri Rameshwar,
R/o Bayal Nagla Majauri, Karhara, Simsaganj,
Firozabad.
8. Yogesh Kumar Pachauri, S/o Sri S.K. Pachauri,
R/o 37/396-13/1A, Nagla Padi, Agra.
9. Man Singh, S/o Sri Chandan Singh,
43/154, Sikandra, Agra.
10. Shekhar Babu, S/o Keso Lal,
R/o 30/17, Kumharpada, Chheepeetola, Agra
11. Devendra Kumar, S/o Sri S.K. Kushwaha,
R/o 37/396-13/1A, Nagala Padi Agra.
12. Umesh, S/o Bhagwan Das,
R/o 30/154, Chhipitola, Agra.
13. Deevan Singh, S/o Sri Nirpat Singh, ~~XXXX~~.
R/o Chawali (PO) Vill Nimkala, Agra. ~~XXXX~~
14. Sunil Kumar, S/o Sri Kishan Lal,
R/o 20/250, Seer Ki Mandi, Loha Mandi Agra.

Attn

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15. ~~M~~ Dilip Kumar, S/o Ramjee Lal,
R/o 31/199 Rawali Agra.
16. Shri Om Singh, S/o late Sri C.P. Singh,
R/o 43/170, Sikandara, Agra.
17. Rahil Ahmad Khan, S/o Sri N.A. Khan,
R/o 32/90 Khati Para Agra.
18. Udaiveer Singh, S/o Sri Niranjan Singh,
R/o Rajeer Nagar, Gulam Nagar, Agra.
19. Yodendra Singh, S/o Sri G. Singh,
R/o 1451 Sector 7 Sikandara Agra.

...Applicant

By Adv : Sri A.K. Gaur

Versus

1. Union of India through the Chief Commissioner of Income Tax,
Kanpur, Aaykar Bhawan, 16/69, Civil Lines, Kanpur Nagar.
2. Commissioner of Income Tax, Agra.
3. Deputy Controller of Accounts Office of the Principal Commissio-
ner of Income Tax, Central Board of Direct Taxes, Zonal Accounts,
Aaykar Bhawan, Kanpur.

... Respondents

By Adv : Sri R Sharma

O R D E R

Hon'ble Mr. A.K. Bhatnagar, JM.

By this OA, filed under section 19 of the A.T. Act, 1985, the applicants have prayed for direction to confer upon the applicants temporary status in pursuance of the Office Memorandum no. 51016/2/90/Estt./(C) dated 10.9.1993 and to regularise their services on any Group 'D' post in the Department after conferring the Temporary Status on them. They have further sought direction to the respondents to make payment of daily wages @ Rs. 71.96 per day w.e.f. 1.4.2000 as decided vide order dated 16.8.2000 (Ann 4) and to make payment of different wages.

2. The brief facts of the case as per applicant are that the applicants S/o Sri Aninash, Kilip Kumar, Vimal Kumar, Subhash and

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Satyadev were appointed as Casual Labour on 6.5.1996, 6.5.1996, 6.5.1996, 23.5.1996 & 24.5.1996 respectively, Sunil Kumar was appointed on 21.6.1997, Jitendra Kumar was appointed on 23.6.1997 Devan Singh was appointed on 10.8.1997. The applicants Raj Kumar, Satyavir Singh, Yogesh Kumar Pachouri, Man Singh, Shekhar Babu, Umesh and Devandra Kumar were appointed as Daily rates basis on 3.9.1997, 22.9.1997, 1.10.1997, 9.10.1997, 13.10.1997, 1.7.1998 & 6.11.1998 respectively. It is claimed that the applicants have worked with the respondents with full satisfaction and have worked even on Saturday and Sunday also. It is also claimed that the applicants had been working with the respondents establishment for more than 3 years i.e. Income Tax Office, Sanjay Palace, Agra. It is claimed that as per OM no. 51016/2/90/Estt./ (C) dated 10.9.1993 issued by Govt. of India, Ministry of Personnel, Public Grievances (Department of Personnel and Training) and under the Casual Labour (Grant of Temporary Status on Regularisation) Scheme of Govt. of India 1993, the applicants were not given temporary status although they have worked for a period of more than 206 days in a year, whereas one Sri Udai Veer Singh who is ^{also} working like the applicants for the last more than 3 years continuously has been granted the Temporary Status. It is also claimed that the scheme of conferment of Temporary Status on completion of 206 days continuous service is an on going scheme and not one time scheme as has been observed by the department, so in the light of the above OM, the applicants were entitled for conferment of temporary status and regularisation accordingly. It is also claimed that the applicants have filed their representations to the Chief Commissioner of Income Tax for redressal of their grievances with regard to conferment of Temporary Status on completion of 206 days continuous service. The representations have not yet been decided by the respondents (Ann 5 & 6). It is also claimed that the applicants are not getting minimum wages prescribed under the Rules and are getting a sum of Rs. 42.50

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per day, while they are entitled for Rs. 71.96 per day which is nothing but exploitation of the workman. Hence this OA.

3. I have heard learned counsel for the parties, considered their submissions and perused records, including their written arguments which were filed after the order was reserved.

4. The main arguments of learned counsel for the applicants is that the applicants were entitled for conferment of temporary status in view of the OM no. 51016/2/90/Estt./C dated 10.9.1993 under which, it has been decided that Daily Wagers, who had continuously worked for a period of 206 days, are entitled to be given a temporary status. One Sri Udaivir Singh, who is working for last more than 3 years continuously has already been granted temporary status, in pursuance of aforesaid OM. Learned counsel for the applicants also stressed that conferment of temporary status on completion of 206 days continuous service is an on going scheme and not one time scheme as has been observed by the department. It is also argued that the representations of the applicants which are lying with the Chief Income Tax Officer, Kanpur for redressal of their grievances have not yet been decided by the respondents. Learned counsel for the applicant has relied upon the following cases in support of ^{his} ~~their~~ arguments :-

- a. OA no. 321/01, Nand Kishore and others Vs. Union of India and others decided on 7.9.2001, by C.A.T. Lucknow Bench.
- b. Ravinder Kumar and others etc etc Vs. Union of India & Ors 2002 (2) ATJ 55.
- c. Bhuri Singh & Ors Vs. Union of India & Ors, 1997-2001 AT Full Bench Judgments 376.
- d. Daily R.C. Labour, P&T Deptt Vs. Union of India & Ors AIR 1987 SC 2342.

5. Learned counsel for the respondents have contested

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the case by filing counter affidavit. He contended that the scheme dated 10.9.1993 on which the applicants are claiming temporary status was one time scheme and was not a continuing scheme and the applicants admittedly have been appointed as casual labour in the year 1996 and onwards after the notification of the scheme. Learned counsel for the respondents has argued that the representations pending before the Chief Income Tax Commissioner, Kanpur are lying with him as it is for the same relief which has been made in the SLP no. 2151 of 2000 lying before Hon'ble Supreme Court. It is further argued that the applicants have been paid for the period for which they have rendered their services and can be given benefit of scheme dated 10.9.1993 only when the controversy is decided by the Hon'ble Supreme Court. It is further contended that the OA filed by the applicants is premature and is liable to be dismissed. It is also contended that the representations of the applicants shall be decided by the Chief Commissioner of Income Tax in accordance with the judgment of Hon'ble Supreme Court in SLP no. 2151 of 2000, Union of India & Ors Vs. Mange Ram. ^{At They} ~~and~~ have relied upon the following judgments:-

- a. JT 1996 (2) SC 455, State of Himanchal Pradesh Vs. Suresh Kumar Verma & Ors
- b. Civil Misc Writ Petition no. 42942 of 1998, decided on 29.11.2000 by Hon'ble Allahabad High Court
6. The Apex Court has already ~~been~~ ⁱⁿ resolved the controversy and observed in case of Union of India & Others Vs. Mohan Pal etc. ~~etc~~ 2002 (7) SBR 49 and has held as under :-

"Clause 4 of the Scheme is very clear that the conferment of 'temporary' status is to be given to the casual labourers who were in employment as on the date of commencement of the Scheme some of the Central Administrative Tribunals took the view that this is an ongoing scheme and as and when casual labourers complete 240 days of work in a year

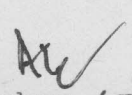
or 206 days(in case of offices observing 5 days a week) they are entitled to get 'temporary' status. We do not think that clause 4 of the Scheme envisages it as an ongoing scheme. In order to acquire 'temporary' status the casual labourer should have been in employment as on the date of commencement of the Scheme and he should have also rendered a continuous service, of atleast one year which means that he should have been engaged for a period of atleast 240 days in a year or 206 days in case of offices observing 5 days a week. From clause 4 of the Scheme, it does not appear to be a general guidelines to be applied for the purpose of giving 'temporary' status to all the casual workers, as and when they complete one year's continuous service. Ofcourse, it is up to the Union Govt. to formulate any scheme as and when it is found necessary that the casual labourers are to be given 'temporary' status and later they are to be absorbed in group 'D' posts."

The Hon'ble Supreme Court has also held in last few lines of para-11 of the same Judgment as under:-

".....We also make it clear that those who have already been given temporary status on the assumption that it is an ongoing scheme shall not be stripped of the 'temporary' status pursuant to our decision."

7. In view of the aforesaid discussion and in the light of the Judgment of Apex Court, I am of the view that the applicants are not entitled for any relief. O.A. is dismissed accordingly. However, the respondents are not barred to decide the representations of the applicants pending before the Chief Commissioner of Income Tax, as per rules.

/M.M./


Member (J)