

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH ALLAHABAD**

Dated: This the 19 day of MAY 2011

Original Application No. 1479 of 2005
(U/S 19, Administrative Tribunal Act, 1985)

**Hon'ble Dr. K.B.S. Rajan, Member (J)
Hon'ble Mrs. Manjulika Gautam, Member (A)**

1. Jogeshwar Son of Sri Shnaker Lal Resident of Chawalee, Near C.O.D. District Agra.
2. Pooran Singh Son of Sri Sahukar.
3. Rameshwar Son of Sri Neck Ram
4. Sukhbeer Son of Ram Singh.
5. Ram Niwas Son of Kartar Singh.
6. Satyendra Son of Rajbeer Singh
7. Vimilesh Son of Sahukar]
8. Rajendra Son of Bhagwan Singh

Applicants No.2 to 8 resident of Village Karwana, Post office Dhandhoopura, Tehsil and District Agra.

9. Neelu Son of Charan Das, Resident of Gali Ashad Tajganj (House No.21/86 A) District Agra.

All the applicants are member of India Archaeological Survey Karmachari Parishad, Agra District Agara.

..... **Applicants**

By Adv. : Shri Prashant Mishra

V E R S U S

1. Union of India through its Secretary Ministry of Culture, New Delhi.
2. Director Archaeological Survey of India, New Delhi.

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3. The Deputy Superintending, Horticulturist, Archaeological Survey of India, Horticulture Division Ist, Taj Mahal, Agra.

..... **Respondents**

By Adv. : **Shri Anil Dwivedi**

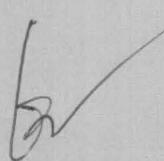
O R D E R

(Delivered by Hon'ble Dr. K.B.S. Rajan, Member-Judicial)

1. This is a second round of litigation. Earlier O.A. Nos. 1484 of 2003 and 1585 of 2002 were disposed of on 19th March, 2005 with a direction to the respondents to consider the representation of the applicants for regularization. In compliance thereto, the respondents have issued Annexure A-1 order dated 27.06.2005 stating that whenever vacancy would arise the same would be published in the leading Newspapers and the Applicants at that juncture may apply for the grant of regular appointment and if selected by the selection committee and also if found fit and duly qualified they shall be granted regular appointment. The Applicants have come against that order.

2. The claim of the Applicant is based on following grounds:-

(a) The decision of the Respondents relates to direct recruitment whereas the Rule to be applied in the case of the applicants is casual labourers (grant of temporary status) Scheme, 1993 which provides for 2/3 of direct recruitment post to be earmarked for regularization of casual labourer with temporary status.

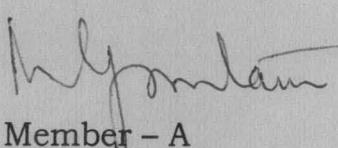


3. A perusal of the documents shows that the applicants have no claim that they have been granted temporary status so far. The law relating to regularization of casual labourer has not been crystallized in the case of State of Karnataka v. Uma Devi 2006 (4) SCC 1 as well as Official Liquidator v. Dayanand 2008 (4) SCC 1.)

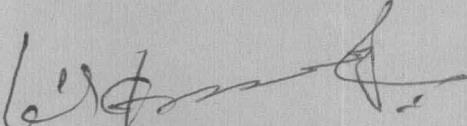
4. Earlier, in Piara Singh, the Apex Court has held that persons with a substantial period of service as casual employees could be regularized deeming that posts are available as without such necessity, persons for long years could not be kept in service. With the pronouncement of the Constitution Bench judgment in the case of **State of Karnataka vs Umadevi (2006) 4 SCC 1**, any law laid down by the Apex Court prior to Umadevi has to be read in consonance with the law laid down in Umadevi and subsequent decisions passed on the same lines as of Umadevi. In case of any conflict between the two i.e. decisions anterior and posterior to Umadevi, obviously the latter would prevail, save when the former is either not discussed or of a larger Bench. The Apex Court in the case of **Official Liquidator vs Dayanand (2008) 10 SCC 1**, which has profusely referred to the decision in Umadevi, has in unequivocal term and with a strong dose of emphasis stated that **while the courts issue directions the same should not result in virtual abrogation of the statutory rules relating to recruitment.** (Para 116 of the judgment refers). Thus, we have to refer to the decisions relating to regularization of the casual labour service of the applicants. The decision of respondents appears to be in accordance with the Rules.

5. In view of the above settled position, we do not find any illegality in the decision taken by the Respondents in respect of the Applicant. Though, there is no legal right to claim for preferential treatment, much less pre-emptive right to the applicants for appointment on the basis of their past casual labourers services, yet interest of justice demands that while considering the case of the applicants age relaxation to the extent of the services rendered by them as casual labourers be granted and other things be equal, preference be given to the Applicants on account of their past services in the Respondents' organization.

6. With the above observation, **O.A. is disposed** of with no order as to costs.



Member - A



Member - J

Sushil