

(12)

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH: ALLAHABAD.**

TUESDAY, THIS THE 13TH DAY OF FEBRUARY, 2007.

QUORUM: HON. MR. P.K. CHATTERJI, A.M.

ORIGINAL APPLICATION NO. 484 OF 2005.

1. Virendra Kumar Shukla, Son of, Shri Harbans Shukla, resident of, Bhadara, Ghatampur, Kanpur.
2. Vinod Kumar, Son of, Shri Bansi Lal, Resident of House No.8, Baniya Bazar, Cantt, Kanpur.
3. Smt. Nirmala, D/O, Shri Galkey Kashyap, 14/1, In front of Church Gwaltoli, Kanpur.
4. S.M. Ibrahim Hussain, S/O, S. Israr Husain, 130/171-A, Bagahi Bahupurwa, Kanpur.
5. Bhagwati Prasad Maurya, S/O Shri Nanku Maurya, Resident of 10/463 (Mefild House), Khalasi Line, Kanpur.
6. Kanhaiya Singh, Son of, Late Shri Raghubeer Singh, 2A/377(S), Azad Nagar, Kanpur.
7. Babu Ram Pal, S/O, Shri Kanhaiya Lal Pal, 8-D, Barra-2, Chedi Singh Ka Purwa, Kanpur.
8. Chander (Safaiwala), 16/69, Civil Lines, Kanpur.
9. Kailash (Safaiwala), S/O, Shri Hori Lal, 16/11, Bhagwat Das Ghat, Civil Lines, Kanpur.
10. Subhash Kumar, Son of, Shri Ram Lawat Prajapati, House No.38, Kanchan Nagar 'B' Shuklaganj, Unnao.
11. Sunil Kumar Saini, S/O, Shri Ram Sahai Saini, 10/470E, Khalasi Line, Kanpur.
12. Brijesh Kumar Pandey, S/O, Shri Shree Kant Pandey, Post Gauri Bhagwanpur, Gram Gauri Lakkha, Kanpur.
13. Ashok Kumar Tiwari, S/O, Late Manna Lal Tiwari, 100-25, Karnalganj, Kanpur.
14. Krishna Kumar, S/O, Shri Suresh Saha, 2/192, Sarvodaya Nagar, Shuklaganj, Unnao.
15. Ram Surat Singh, Son of, Late Ram Nath Singh, Kanchan Nagar 'A', in front of 2/548, Kalimandi, Shuklaganj, Unnao.
16. Daya Shankar, Son of Shri Barati Lal, Poney Road, Chanda Chauraha, Brahma Nagar, Shuklaganj, Unnao.

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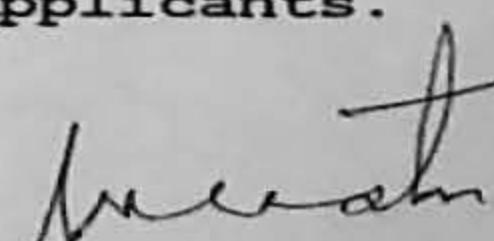
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17. Raaaaaaajesh Rao, S/o Shri Kallu Prasad, 390, Civil Lines, Birhana, Unnao.
18. Ajai Kumar (Safai Wala) S/o Sri Om Das, C-26, Police Line, Civil Lines, Kanpur.
19. Vijay Kumar, S/o late Shri Sahdev Prasad, Behind ITI, Malin Basti, Rajapurwa, Kanpur.
20. Ghanshyam Yadav, S/o Shri Keshav Prasad Yadav, 4/278, B-I Vishnupuri Colony, Kanpur.
21. Veer Singh, S/o Sri Ram Tej Singh, 25/16, Karachi Khana, Kanpur.
22. Rakesh Sharma, S/o Shri Vinod Sharma, H. No. 238-D, Shyam Nagar, Kanpur.
23. Rajesh (Safai wala, S/o Shri Jagmohan, 16.11 Guptarghat, Pheel Khana, Kanpur.
24. Pankaj Mishra, S/o Shri R.K. Mishra, Gopi Nath Puram Shukla Ganj, Unnao.
25. Rajendra Prasad Tiwari, S/o Shri N.P. Tiwari, 16/39-D, Civil Lines, Kanpur.
26. Rajendra Kumar Srivastava, S/o Shri L.N. Srivastava, H-43, Central Excise Colony, Ranjit Nagar, Kanpur.
27. (Deleted)
28. Ram Dhai Kol, S/o Sri Niranjan Kol Gram Shivpura, Post Amilia Kala, Tehsil Meja, Allahabad.
29. Chandra Bhan Singh, S/o late Shri Malkhan Singh 101, Civil Lines, Kachehri Road, Unnao.
30. Navneet Kumar Shukla, S/o Shri Durga Shanker Shukla, Gram Dalpatpur, Pot Prempur Thana Narval, Kanpur.
31. Pawan Shukla, S/o Shri J.S. Shukla, H. No. 584'B', S. Block Yashoda Nagar, Kanpur.
32. Smt. Suman, S/o Shri Ganeshi Lal Ji, 9/50, Brijendra Swaroop Park, Makrobert Ganj, Kanpur.
33. Ravindra Yadav, S/o Sri R.V. Yadav, 13/174, Parmat Kanpur.
34. Pradeep Kumar Yadav, S/o Sri Shyam Yadav, 116/96, Ravatpurgaon, Kanpur.
35. Izhar Ahmad, S/o Late Imtayaz Ahmad, 16/69, Civil Lines Kanpur.
36. Pankaj Shukla, S/o Late Shri V.K. Shukla, 109/54, Nehru Nagar Kanpur.

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37. Arvind Kumar Gaur, S/o Sri D.K. Gaur, 15/279, Civil Lines, In front of G.N.K. Inter College, Kanpur.
38. Brijesh Kumar Tiwari, S/o late Sri Ram Tiwari, E-12/5, KDA Colony, Yashoda Nagar, Kanpur.
39. Ganesh Kumar, S/o late Sri Gopalji Prasad Gupta, 96/1, Vijai Nagar Kanpur.
40. Kuldeep Srivastava, S/o Shri Shiv Bhawan Lal Srivastava, 126/41-I, Block Govind Nagar, Kanpur.
41. Prabhat Verma, S/o Sri Om Prakash Verma, Plot No. 258, Damodar Nagar, Kanpur.
42. Ravi Shanker Mishra, S/o late Shri Ram Bihari Mishra, Gram & Post Chamrauli, Distt: Unnao.
43. Lok Prasad, S/o Shri Shalie Ram, 10/463, Khalasi Line, Knapaur.
44. Sanjai (Safai Wala), S/o Sshri Kallu, 12/480, Gwaltoli Kanpur.
45. Rajesh Kumar (Safai Wala), S/o Shri Modan Lal, 16/11, Bhagwat Das Ghat, Civil Lines, Kanpur.
46. Alimuddin, S/o Shri Imamuddin, 184, Moti Nagar, Jamau, Kanpur.
47. Dev Raj Maurya, S/o Shri Jagannath Maurya, Gram & Post Kumbhi Aima, Distt: Pratapgarh.
48. Jagmohan, S/o Sri Bhola CTI Churaha, Govind Nagar, Kanpur.
49. Brahma Narain, S/o late Shri B.N. Saxena, H. No. 610 Sunaron Ki Gali, Malhanpur, Bazaria Bareilly.
50. Chandra Kumar Singh, S/o Sri Siya Ram Kannaujia Ujyari Purwa, Naibasti, Kheyra, Nanawaganj, Near Jyoti Vidyamandir School.
51. Shiv Dayal, S/o Shri Rajau, Gram Bhaya Khera, Post Bhagwatnagar, Unnao.
52. Hausla Prasad, S/o Sri Jai Karan Maurya, Post Saigarh, Distt: Sultanpur.
53. Anil Kumar Dwivedi, S/o Sri Chandra Dutt Dwivedi, 117/194, 'P' Block Hitkari Nagar, Kakadev, Kanpur.
54. Prem Chandra Pal, S/o Sri Bhajan Lal Pal, Plot No. 258, Khyora, Nai Basti, Nawabganj, Kanpur.

..... Applicants.



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Counsel for applicant : Shri Amrendra Kumar Srivastava.

Versus

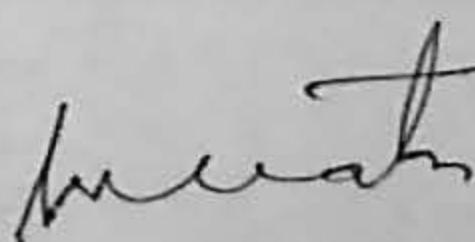
1. Union of India through the Chief Commissioner of Income Tax, Kanpur Aayakar Bhawan.
2. Commissioner of Income Tax, Kanpur.
3. Dy. Controller of Accounts Office of the Principal Commissioner of Income Tax, Central Taxes Zonal Accounts, Aayakar Bhawan, Kanpur.

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Respondents.

Counsel for Respondents : Shri Saumitra Singh.

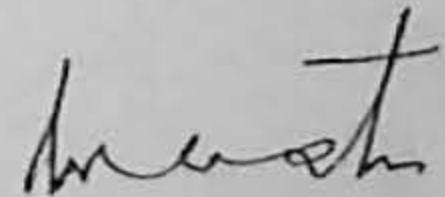
ORDER

The counsel for applicant has drawn my attention to the order dated 15.2.2005 of the office of the Commissioner of Income Tax whereby the claim of the applicants for temporary status has been turned down on the ground that the conditions given in the Government Circular dated 1.9.1993 do not apply to the applicants. The applicants, however, say that although they do not come under the purview of the circular dated 1.9.1993, the fact cannot be denied that they were engaged as casual labourers and have still been working as such for a period, which is much longer than 240 days, which is the usual requirement for conferring temporary status to a casual labour. Not only that, counsel for applicant has also referred to the order of the office of the Commissioner of Income Tax-I, Agra dated 10.1.2001 in which it has also been stated that temporary status would be conferred on all casual workers, who are presently employed and have been engaged continuously for five years as on 1.1.2001 and also completed 206 days of service during the year. The applicants have also attached other documents (Annexure Nos.2 to 5), the sole intent of furnishing those documents being that the circular dated 1.9.1993 is not the last word in the matter of granting temporary status and regularization. The applicants have not asked for the benefit of that circular as their claim stands on a different footing.



2. In the instant case, the applicants were engaged as casual labourers in the year 1997 and according to them, they continue to be working as casual labourers and have been drawing wages from the Respondents. They have already fulfilled the conditions stated in the circular of the Commissioner of Income Tax-I, Agra dated 10.1.2001. Not only that they have also referred to the order of the Chief Commissioner of Income Tax, New Delhi No.95/Pers/99-2000 dated 28.12.1999 through which temporary status has been granted to a large number of casual workers who completed 206 days of continuous service. All these casual labourers are stated to have joined on various dates in the year 1997-98. Counsel for the applicant, after drawing my attention to this circular, says that Annexure-2 would clearly show that the circular of the D.O.P.T. dated 1.9.1993 is not the only determinant of grant of temporary status. In that case his question is what will happen to casual labourers, who were engaged subsequently if there is no other guidelines for granting them temporary status. The learned counsel is of the view that there are obviously guidelines to determine the status of casual labourers, who were engaged subsequent to the issue of the circular dated 1.9.1993. It is for this purpose that the learned counsel has annexed what he considers the relevant documents in the O.A. as well as in the form of Annexure No.RA-1.

3. Counsel for the Respondents was asked whether the rejection of the claim of the applicants by the impugned order dated 15.2.2005 would be justified for the simple reason that they were not on engagement on 1.9.1993. Obviously, the circular of 1.9.1993 would not be applicable to the present applicants, whose date of engagement was in 1997-98. It does not appear reasonable that the claim of such applicants should also be disposed of in terms of the circular dated 1.9.1993, which was aimed at providing one time exception to certain groups of casual employees. The reply furnished by the Respondents could not offer any satisfactory explanation

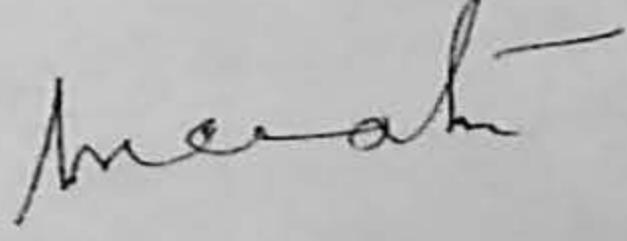


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as to in what terms the status of these casual labourers, who were engaged in the year 1997-98 would be decided. In this background, the argument of the counsel for the applicant that the subsequent orders, as mentioned in Annexures 2 to 5 and Annexure RA-1 should decide the claim of the applicants for granting temporary status appears reasonable.

4. On the basis of the above mentioned points and considerations, it would be clear that there is room for reconsideration of the issue in the light of such subsequent directions, as mentioned above. As the impugned order relies solely on the circular of 1.9.1993, it is not appropriate and complete order. Therefore, it deserves to be quashed. ^{15.2.05} I, therefore, direct that the impugned order dated ~~19.08.98~~ is set aside. The Respondents should consider the claim of the applicants in terms of the subsequent circulars, which are relevant for considering temporary status of such employees, who were engaged subsequent to 1.9.1993. Perhaps the Respondents have not appreciated that it is not the circular of 1.9.1993, which the applicants are relying upon to substantiate their claim for obvious reasons. The respondents would reconsider the matter afresh in the light of the subsequent orders and take appropriate decision on the applicants' claim for grant of temporary status as admissible under the present rules and issue a reasoned and speaking order within a period of four months from the date of receipt of a certified copy of this order.

No costs.


A.M.

Asthana/