

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
Original Application No.526/2014
Dated the 23rd day of September, 2021

CORAM:**Hon'ble Sh. Jayesh V. Bhairavia, Member (J)****Hon'ble Dr. A K Dubey, Member(A)**

1 Babubhai Parmar,
 Son of Girmanbhai Parmar, Age – 57 years (Retired)

2 Naranbhai Patel,
 Son of Kalubhai Patel
 Age – 42 years Occupation Regular Mazdoor.

3 RAMILABEN Patel,
 W/o. Prabhatbhai Patel,
 Age – 51 years
 Occupation Regular Mazdoor. ... Applicants

All resident of C/o. Jin Bazar, Telephone Exchange,
 Post: Netrang Ta. Valla, Dist: Bharuch-393110.

By Advocate Ms S S Pathan

V/s

1 Union of India,
 Notice may be served through
 Chairman,
 Bharat Sanchar Nigam Limited,
 Sanchar Bhavan, New Delhi-110001.

2 Chief General Manager,
 Bharat Sanchar Nigam Limited
 Gujarat Circle,
 C.G.Road, Ahmedabad-380009.

3 General Manager,
 Bharat Sanchar Nigam Limited,
 Telephone Exchange, M.G.Road,
 Bharuch – 392 001.

4 Sub Divisional Officer,
(Phones), Bharat Sanchar Nigam Limited,
Valiya -392019 ... Respondents

By Advocate Ms R R Patel

ORDER (ORAL)

Per: Hon'ble Shri Jayesh V. Bhairavia (J)

1 This OA is of year 2014. It is noticed that inspite of ample opportunity having been granted to the applicants and their counsel, none remained present. Sufficient time was granted to the counsel for applicant to make alternate arrangement. However, none remained present for the applicant.

This Tribunal had issued fresh notice to the applicants on the given address. The said notice was returned stating on the postal addressee that "They had left their residence." As per the last order dated 24.08.2021 it was made clear that if none appears on behalf of applicant on the returnable date, appropriate order will be passed. Today also none remained present for the applicant. The matter is of the year 2014. We have taken up the matter for final adjudication under Rule 16 of CAT (Procedure) Rules.

2 In the present case the applicants sought relief by way of a direction to regularise their services as regular Mazdoor Group 'D' (Non test category), from the temporary status to full time casual labour and further sought relief of quashing and setting aside the decision of respondents dated 03.01.2014 (Annexure A/8), whereby the representation of the applicants had been rejected.

3 It is noticed that pursuant to the direction issued by this Tribunal in OA 32/2012 on 22.10.2013, the Office of the AGM(Admin) O/o. GMTD, Bharuch i.e. respondent no.3 herein, considered the representation by assigning reason that the applicants were not recruited as per regular recruitment process in Group 'D', decided that their request for grant of temporary status and regularisation cannot be accepted. The said decision dated 03.01.2014 is impugned in the present OA.

4 As a ground of challenge to the said decision, the applicants have contended that they had completed 240 days in a calendar year while working with the respondents and under the scheme of Casual Labourer (Grant of temporary status and regularisation) Scheme 1989, the claim ought to have been considered by the respondents.

5 On receipt of notice issued by this Tribunal, the respondents have filed their reply denying the claim of applicant. It is stated that in the case of applicants, the said scheme is not applicable. The applicants are not full time casual labourers. Therefore, they are not entitled for granted of temporary status or regularisation of their engagement. It is stated that they were never recruited through regular process. The parity sought by the applicants is also not available to them. The respondents relied upon the law laid down by the Hon'ble Apex Court in the case of State of Karnataka v/s Uma Devi reported in (2006) SCC (L&S) 753. It is further contended that the temporary status cannot be treated under the scheme as permanent engagement or status unless the Mazdoor is protected through regular process of their recruitment for Group 'D' post. Therefore the casual labourers who are working on a temporary status cannot be considered as member of permanent establishment unless they are protected through regular selection process in Group 'D' post. Learned counsel for respondents Ms R R Patel submits that the reason assigned by respondent no.3 in his speaking order dated 03.01.2014 is in consonance with the law laid down by Hon'ble Supreme Court in the case of Uma Devi.

6 No rejoinder has been filed.

7 We have heard the learned counsel for both the sides and perused the material on record. It is noticed that earlier the applicant alongwith others had filed OA 32/2012. Further it is noticed that identically situated other casual labourers have also filed different OAs i.e. 64, 303, 52/2012 for the relief to grant them benefits under the Scheme of 1989. This Tribunal vide its common order dated 22.10.2013 passed the following order:-

“2. It appears that all the applicants have filed representations before the respondents, which are pending with the respondents. Mr B N Doctor submits further to his arguments on 02.07.2013 and on

22.08.2013 that till the respondents consider the representations of the applicants and dispose of the same, applicant would not have a cause of action, and any reason to approach the Tribunal. He further states that it is an issue to be determined as to whether any legal remedy would lie with the applicants even after the respondents dispose of their representations, because there are judgments of the Hon'ble Apex Court on the issue which stated that the applicants would have no legal right in the matter to get the Scheme enforced."

- 8 It can be seen that since the representations filed by the applicant were not considered at the relevant time, this Tribunal while disposing the aforesaid OAs directed to dispose of the pending representations and pass reasoned speaking order (Annexure A/7 referred). Pursuant to said order, the respondent no.3 herein passed speaking order dated 03.01.2014 (Annexure A/8) which is impugned herein, decided the representation and regretted to accede to the claim of applicants under the Scheme 1989. As noted herein above, the reason assigned by respondents in the said impugned order dated 03.01.2014 are self explanatory.
- 9 In the absence of any material rebutting the said reasons for not accepting the claim of applicants, we do not find any infirmity in the impugned decision. Hence, the OA deserves to be dismissed. Accordingly the same is dismissed. No costs.

(Dr A K Dubey)
Member(A)

(Jayesh V Bhairavia)
Member(J)

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