

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Original Application No. 77 of 2009

Allahabad this the 01st day of May, 2003.

HON'BLE MRS. MEERA CHIBBER, MEMBER-J.

1. Hukum Singh Pal, aged about 24 years, S/o Shri Jagram Singh, R/o Village- Jogiya Sihali, P.O.- Sherpur, Madhupur Chhajalait, Moradabad.
2. Omi Singh, aged about 29 years, S/o Late Shri Ghanshyam Singh, R/o Chakkar ki Milak, Moradabad.
3. Suraj Pal, aged about 28 years, S/o Shri Garib Das, R/o Village- Dan Shah ki Milak, Moradabad.
4. Jalvir Singh, aged about 25 years, S/o Shri Vidya Ram, R/o Village - Nangala Pardhaman, Post- Jajumai, District- Firozabad.
5. Sanjay Kumar, aged about 26 years, S/o Shri Nathu Lal Sharma, R/o G-16, Navin Nagar, MDA Colony, Moradabad.
6. Gaurav Kumar, aged about 23 years, S/o Shri Mphar Singh, R/o Shastri Nagar, Mansarovar Colony, Moradabad.
7. Narain Dutt Sharma, aged about 26 years, S/o Shri Ami Chand Sharma, R/o Evergree Compound, Civil Lines, Moradabad.



8. Mohar Singh, aged about 23 years,
S/o Shri Ram Prasad Singh, R/o
Village- Mhammadpur Dhyan Singh,
Post- Bhagwanpur, District- Moradabad.
9. Lakhan Singh, aged about 22 years, S/o
La late Shri Roop Chandra,, R/o
Daulatabagh, Moradabad.
10. Sunil Kumar, aged about 23 years,
S/o Shri Sikhari Ram, R/o Income
Tax Colony, Moradabad.
11. Sanjay Balmiki, aged about 23 years,
S/o Shri Babu Ram, R/o Khurja Gate,
Chandausi, Moradabad.
12. Madan Mohan, aged about 37 years,
S/o Shri Jagdish Saran, R/o India
Chowk, Moradabad.
13. Surendra Singh, aged about 31 years,
S/o Shri Binari Singh,
R/o Village-Sahaspur, District-
Bijnor.

.....Applicants.

(By Advocate : Sri R.Verma)

V E R S U S

1. The Union of India through the
Secretary Ministry of Finance,
(Department of Revenue), Central
Board of Direct Taxes, New Delhi.
2. The Chief Commissioner of Income Tax,
Lucknow.
3. The Commissioner of Income Tax,
Moradabad.

.....Respondents.

(By Advocate : Shri R.C.Joshi/absent/)



W I T H

✓ Original Application No. 218 of 2002

Zakir Hussain, aged about 26 years,
S/o Late Shri Aladin, R/o Purana
Shahar, Sufi Tola, Bareilly.

.....Applicants

(By Advocate :- Shri R.Verma)

V E R S U S

1. Union of India through the Secretary, Ministry of Finance (Department of Revenue), Central Board of Direct Taxes, New Delhi.
2. The Chief Commissioner of Income Tax, Lucknow.
3. The Commissioner of Income Tax (Central Circle), Kanpur,
4. The Deputy Commissioner of Income Tax (Central Circle), Bareilly.

.....Respondents

(By Advocate : Shri R.Sharma)

W I T H

Original Application No. 219 of 2002

Mukesh Kumar Kanaujia, aged about 31 years, S/o Shri Ram Lal Kanaujia, R/o Village-Mudia, Ahmad Nagar, Post-Khas Mudia, Ahmad Nagar, District- Bareilly.

.....Applicants.

(By Advocate : Sri R.Verma)

1. Union of Ind



V E R S U S

1. Union of India through the
Secretary, Ministry of Finance
(Department of Revenue), Central
Board of Direct Taxes, New Delhi.
2. The Director of Income Tax
(Investigation), Kanpur.
3. The Joint Director of Income Tax
(Investigation), Office of the Directorate
of Income Tax (Investigation),
(North Zone), Lucknow.
4. The Deputy Director of Income Tax
(Investigation), Bareilly.

.....Respondents

(By Advocate : Shri R. Sharma)

O R D E R

O.A. nos. 77 of 2002, 218 of 2002 and 219 of 2002 are all identical in nature, therefore, they are being disposed off by a common order. For the purposes of giving the facts, O.A. no. 77 of 2002 is being taken as a lead case.

2. There are 13 persons in O.A. no. 77 of 2002, Zakir Hussain-applicant in O.A. no. 218 of 2002 and Mukesh Kumar Kanaujia- applicant in O.A. no. 219 of 2002. Admittedly, all the applicants in these O.As were engaged initially on casual basis on different dates, which have been shown as below :

| Sl. | petitioner | Date of engagement as casual labour | Date on which they completed one year continuous service |
|-----|-----------------|-------------------------------------|--|
| 1. | petitioner no.1 | 20.9.1993 | 19.9.1994 |
| 2. | petitioner no.2 | 1.9.1993 | 31.8.1994 |
| 3. | petitioner no.3 | 18.12.1995 | 17.12.1996 |
| 4. | petitioner no.4 | 28.2.1996 | 27.2.1997 |
| 5. | petitioner no.5 | 22.12.1997 | 21.12.1998 |

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| | | | |
|-----|------------------|------------|------------|
| 6. | petitioner no.6 | 15.10.1997 | 13.10.1998 |
| 7. | petitioner no.7 | 22.12.1997 | 21.12.1998 |
| 8. | petitioner no.8 | 20.9.1997 | 19.9.1998 |
| 9. | petitioner no.9 | 10.9.1997 | 9.9.1998 |
| 10. | petitioner no.10 | 1.4.1999 | 31.3.2000 |
| 11. | petitioner no.11 | 1.12.2000 | 31.11.2001 |
| 12. | petitioner no.12 | 12.1.2000 | 11.1.2001 |
| 13. | petitioner no.13 | 18.3.2000 | 17.3.2001 |

Zakir Hussain- applicant in O.A. no. 218/2000 was engaged as Casual labour w.e.f. 1.2.1994, whereas Mukesh Kumar Kanaujia- applicant in O.A. no.219/2000 was engaged on 25.2.1995. All these applicants are claiming direction to the respondents to grant temporary status to the petitioners alongwith all benefits attached thereto from their respective dates of completing 206 days service with the respondents and to regularise the services of the petitioners in pursuance of the Scheme dated 10.9.1993 ^{with B.} came into effect on 1.9.1993 and to pay them wages at the rate equivalent to the minimum pay in the pay-scale of the regularly employed workers in the corresponding cadres i.e. 2550-3200 w.e.f. the date of their respective engagements alongwith DA, ADA etc. and to regularise them in pursuance of the judgment reported in 1988 SCC (L&S) 344.

3. It is submitted by the applicants' counsel that all the applicants are fully covered by the Scheme formulated by the Govt. of India known as Casual Labour (Grant of Temporary Status & Regularisation) Scheme dated 10.9.1993 which came into force w.e.f. 1.9.1993. Therefore, they are entitled to be given temporary status as well as regularisation as all the applicants after their engagements from their respective dates, as mentioned above, are still working as casual labour against Group 'D' posts which carries the pay-scale of Rs.2550-3200/- in the office of Income Tax Commissioner, Moradabad, U.P. It is also submitted by the applicants that they have given number of representations to the authorities from time to time for seeking relief, as mentioned above,



but since no response was received from the respondents, therefore, they had no other option, but to file the present O.As

4. The respondents have, on the other hand, opposed these O.As and have submitted that a similar O.A. no. 14/99 was filed by one Sri Mange Ram before the principal Bench of the Tribunal seeking regularisation and temporary status in accordance with the aforesaid scheme and the principal Bench of the Tribunal was pleased to dispose off the petition to grant temporary status and other consequential benefits and other consequential benefits vide order dated 25.5.1999. The said judgment was challenged by the union of India before the Hon'ble High Court, but the High Court upheld the judgment of the Tribunal. Therefore, being aggrieved, they filed SLP before the Hon'ble Supreme Court where pending notice, the operation of the judgment was stayed by the apex court. The apex court has also stayed the contempt proceedings. Therefore, the respondents have submitted that since this matter is sub-judice before the Hon'ble Supreme Court, this O.A. is liable to be dismissed. They have also submitted that none of the applicants have initially engaged through Employment Exchange. They have further submitted that since it is mandatory to engage casual workers through the Employment Exchange, the appointment of casual workers other than through the Employment Exchange is irregular and such employees cannot be bestowed with temporary status. They have further submitted that the Hon'ble Supreme Court had directed to pay the wages to the casual employees who were employed as the contingent paid staff of the Income Tax Department at the rates equivalent to the minimum pay in the pay-scale of the regularly employed workers, whereas the petitioners therein are only daily wagers and have not been conferred with temporary status, hence they are not entitled for any relief as claimed by them.



5. Today, when the matter came-up for hearing, counsel for the respondents stated that the issue involved in the aforesaid O.As had already been decided by the Hon'ble Supreme Court finally in the case of Union of India & Ors. Vs. Mohan pal etc. reported in 2002 (7) SBR 49 wherein the Hon'ble Supreme Court has held as under :

"6. 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 (incase 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."

From the above, it is clear that casual labour should have been employed on the date of commencement of the scheme and they should have also rendered continuous service atleast one year which means that they should have ^{been} engaged ^{for} 240 days in a year or 206 days (incase of offices observing 5 days a week) and clause 4 of the Scheme ~~it~~ does not appear to be a general guidelines for the purposes of giving temporary status to all the casual labourers as and when they complete one year continuous service. Of course, it is open to the Union Government 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. I have seen the judgment referred to by the respondents' counsel in the background of the judgment decided by the apex court; the present cases are fully covered by the said judgment ~~and~~ None of the applicants can be said to be covered under the said scheme as they did not fulfil the conditions ^{at} laid down in ^{para 4 of the} the scheme ~~and~~ ~~since~~

as admittedly none of the applicants were either engaged on 10.9.93, nor had completed 240 days or 206 days in a calendar year as on 1.9.93, therefore, they cannot ask for any relief on the basis of the said Scheme. The O.As are, therefore, devoid of any merit, accordingly all the three O.As are dismissed with no order as to costs.

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