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RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated: This the 10th day of Dec 2010

Original Application No. 887 of 2002

Hon'ble Mr. S.N. Shukla, Member (A)

1. Sunil Kumar Pandey
S/o Jamuna Pandey.
2. Manoj Kumar Sonekar,
S/o Ganga Prasad sonekar
3. Akhilesh Kumar,
S/o Ganesh Bind.
4. Satyandra Kumar Singh,
S/o Shiv Barat Singh

All C/o Manoj Kumar Sonekar, R/o S3/190 Orderly Bazar,
Varanasi.

..... Applicant.

By Advocate: Sri B.D. Tiwari & Sri R.N. Pathak

V E R S U S

1. Union of India through the Secretary,
Ministry of Finance,
Central Board of Direct Taxes,
New Delhi.
2. The Chief Commissioner of Income Tax,
Lucknow.
3. The Dy. Commissioner of Income Tax,
Central Circle,
Varanasi.

..... Respondents.

By Advocate: Shri Anil Dwivedi

O R D E R

Total number of applicants in this case consists of 04
casual labours. The applicant No. 1 and 2 are employed in the

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office of Joint Commissioner, Income Tax, Varanasi and applicants No. 2 and 3 are employed in the office of Commissioner of Income Tax, Central Circle, Kanpur. It is claimed that they have completed 206 days of un-interrupted working and hence they are entitled to grant of temporary status from the date of completion of 206 days by virtue of OM No. 51016/2/90-Estt. (C) dated 10.09.1993. All the applicants claimed to have completed working of the required number of days and hence they claim temporary status. They are also claiming similar treatment as given to a few other casual labours as per detailed given at Annexure A-3. Vide order dated 31.05.2001 (Annexure A-3) that 10 individuals listed in the said order were granted temporary status of Central Administrative Tribunal's order dated 02.01.2001 in OA No. 657/98. It was clarified in that order that temporary status conferred on these individuals was not related to the scheme of 1993. They also took support from the order No. 127 dated 21.08.2003 from the office of Commissioner of Income Tax Faizabad wherein two individuals namely Sri Alok Singh and Sri Amar Bahadur Chubey have been conferred with temporary status on completion of one year or 208 days of service and independent of the scheme of 1993 [This order, however, does not indicate that the date of initial engagement of these two individuals in the office of Commissioner of Income Tax, Faizabad].

2. Earlier these applicants had approached this Tribunal in OA No. 1612/01 decided vide judgment and order dated 07.01.2002

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wherein the respondents were directed to decide the representations of the applicants through reasoned and speaking order. The instant OA is to contest the impugned order dated 18.03.2002 and 15.03.2002 (Annexure A-6 and A-7 respectively). Vide these orders it has been held that the scheme of 1993 was applicable to those casual employees who had completed 206 days of working as on 10.09.1993 and not to the individuals who have completed 206 days any time after 10.09.1993 whether or not they were employed w.e.f. the date earlier or later than 10.09.1993.

3. Support was also taken from orders dated 11.08.1997 of this Tribunal in *OA No. 1226/94 in the case of Raj Dhari Vs. Union of India* and others in which the Tribunal has held as under:-

**Keeping in view the provisions in this office memo and also the verdict given by the Hon'ble Supreme Court, the Principle Bench of the Tribunal and this Bench of the Tribunal in O.A. No. 1226/1994 dated 11.08.1997, the facts and the legal position involved in the present mater was examined, and it is found that the applicant cannot get benefit of OM dated 1.9.1993 in view of the provisions in this very memo that "this scheme is applicable to casual labours in employment of Ministries/Departments of the Government of India and their attached and subordinate offices on the date of issue of this order (emphasis provided) (XX) it is not his case that he was on the roll of the specific date i.e. on 1.9.1993 and therefore, the relief sought on the basis of this petition cannot be granted."*

6. *In view of the above, the representation filed by you is rejected."*

4. The impugned orders have been challenged for the reasons already narrated at the beginning of this order.

5. In the counter affidavit it has been contended that the applicants are not Government employee and, therefore, their



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remedy does not lie before this Tribunal so the OA is not maintainable. In the written submission of the respondents the only point taken is that first of all the preliminary objection of non-maintainability needs to be decided before entering into the merits of the case.

6. Heard learned counsel for the parties and perused the material on record. In so far as the preliminary objection of the respondents is concerned the one can only wonder that such a naive argument can be taken as preliminary objection when hundreds of similar matters have been filed and decided before various benches of this Tribunal and higher judicial forum. Preliminary objection, therefore, deserves to be dismissed without any further discussion.

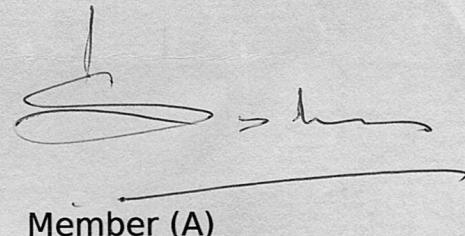
7. On merit, however, the respondents in their respective impugned orders have taken support from the order of this Tribunal which is correct position as per law and is to be followed as a scheme of 1993 was a one time measure. In so far as the instance of few other individuals having been given temporary status, the Tribunal will not hazard a guess as under which scheme they were engaged. The applicants have, however, failed to make out any case even on the basis of parity that the scheme of 1993 is continuous scheme available for all casual labours who have completed 206 days regardless of the period when they were engaged.

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8. Applicants have also placed reliance on the decision OA No. 657/98. I have perused the decision of the said OA and it is found that perhaps the some employees were not considered under the notification of 12.10.1997 on account of inadvertent omission. In such circumstances the applicants do not get any support from the judgment and order passed in OA No. 657/98 was on specific facts of individual cases.

9. In view of the above observations I find no merit in the OA and the OA is dismissed. No cost.



Member (A)

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