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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. NO.793 OF 2013
Cuttack, this the 4th day of December, 2013

CORAM
HON'BLE MR. A.K. PATNAIK, MEMBER (JUDL.)

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1. Archaeological Survey of India, Horticulture Workers' Union, Represented through its President, Nabakishore Mohanty, aged about 59 years, Son of late Natabar Mohanty, Residing at Plot No.32, Ashok Nagar, P.S.Capital, Bhubaneswar, Dist. Khurda.
2. Akhaya Kumar Das, aged about 47 years, Son of Sapani Das, Working as Casual Worker, awarded with 1/30th Wages, under the Deputy Superintendent, Horticulturist, Archaeological Survey of India, Bhubaneswar Sub-Circle, Dist. Khurda.
3. Hrusikesh Bhoi, aged about 43 years, Son of Panu Bhoi, Working as Casual Worker, awarded with 1/30th Wages, under the Deputy Superintendent, Horticulturist, Archaeological Survey of India, Bhubaneswar Sub-Circle, Dist. Khurda.
4. Shabar Bhanj, aged about 45 years, Son of Bhalu Bhanj, Working as Casual Worker, awarded with 1/30th Wages, under the Deputy Superintendent, Horticulturist, Archaeological Survey of India, Bhubaneswar Sub-Circle, Dist. Khurda.
5. Satyabadi Behera, aged about 45 years, Son of Jogi Behera, Working as Casual Worker, awarded with 1/30th Wages, under the Deputy Superintendent, Horticulturist, Archaeological Survey of India, Bhubaneswar Sub-Circle, Dist. Khurda.
6. Basanta Kurhar Bhoi, aged about 43 years, Son of Makar Bhoi, Working as Casual Worker, awarded with 1/30th Wages, under the Deputy Superintendent, Horticulturist, Archaeological Survey of India, Bhubaneswar Sub-Circle, Dist. Khurda.
7. Manu Bhoi, aged about 44 years, Son of Chaitanya Bhoi, Working as Casual Worker, awarded with 1/30th Wages, under the Deputy Superintendent, Horticulturist, Archaeological Survey of India, Bhubaneswar Sub-Circle, Dist. Khurda.
8. Golakh Bhoi, aged about 45 years, Son of Kailash Bhoi, Working as Casual Worker, awarded with 1/30th Wages, under the Deputy Superintendent, Horticulturist, Archaeological Survey of India, Bhubaneswar Sub-Circle, Dist. Khurda.
9. Mayadhar Senapati, aged about 45 years, Son of Khageswar Senapati, Working as Casual Worker, awarded with 1/30th Wages, under the Deputy Superintendent, Horticulturist, Archaeological Survey of India, Bhubaneswar Sub-Circle, Dist. Khurda.
10. Anam Behera, aged about 44 years, Son of Jagannath Behera, Working as Casual Worker, awarded with 1/30th Wages, under the Deputy Superintendent, Horticulturist, Archaeological Survey of India, Bhubaneswar Sub-Circle, Dist. Khurda.

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11. Jagannath Bhoi, aged about 42 years, Son of Netrananda Bhoi, Working as Casual Worker, awarded with 1/30th Wages, under the Deputy Superintendent, Horticulturist, Archaeological Survey of India, Bhubaneswar Sub-Circle, Dist. Khurda.
12. Trilochan Sethi, aged about 44 years, Son of Jogendra Sethi, Working as Casual Worker, awarded with 1/30th Wages, under the Deputy Superintendent, Horticulturist, Archaeological Survey of India, Bhubaneswar Sub-Circle, Dist. Khurda.
13. Dhusasan Sethi, aged about 44 years, Son of Kedar Sethi, Working as Casual Worker, awarded with 1/30th Wages, under the Deputy Superintendent, Horticulturist, Archaeological Survey of India, Bhubaneswar Sub-Circle, Dist. Khurda.
14. Sridhar Das, aged about 45 years, Son of Chandramani Das, Working as Casual Worker, awarded with 1/30th Wages, under the Deputy Superintendent, Horticulturist, Archaeological Survey of India, Bhubaneswar Sub-Circle, Dist. Khurda.
15. Dhruba Charan Nishank, aged about 43 years, Son of Sukadev Nishank, Working as Casual Worker, awarded with 1/30th Wages, under the Deputy Superintendent, Horticulturist, Archaeological Survey of India, Bhubaneswar Sub-Circle, Dist. Khurda.
16. G. Chandramani Reddy, aged about 44 years, Son of G. Balaji Reddy, Working as Casual Worker, awarded with 1/30th Wages, under the Deputy Superintendent, Horticulturist, Archaeological Survey of India, Bhubaneswar Sub-Circle, Dist. Khurda.
17. Kabula Swain, aged about 37 years, Son of Harihar Swain, Working as Casual Worker, awarded with 1/30th Wages, under the Deputy Superintendent, Horticulturist, Archaeological Survey of India, Bhubaneswar Sub-Circle, Dist. Khurda.
18. Debaraj Kandi, aged about 47 years, Son of Dhruba Kandi, Working as Casual Worker, awarded with 1/30th Wages, under the Deputy Superintendent, Horticulturist, Archaeological Survey of India, Konark Sub-Circle, Dist. Puri.
19. Surendra Behera, aged about 38 years, Son of Srinibas Behera, Working as Casual Worker, awarded with 1/30th Wages, under the Deputy Superintendent, Horticulturist, Archaeological Survey of India, Konark Sub-Circle, Dist. Puri.
20. Bhagaban Kandi, aged about 41 years, Son of Narayan Kandi, Working as Casual Worker, awarded with 1/30th Wages, under the Deputy Superintendent, Horticulturist, Archaeological Survey of India, Konark Sub-Circle, Dist. Puri.
21. Bipin Kandi, aged about 42 years, Son of Dhruba Kandi, Working as Casual Worker, awarded with 1/30th Wages, under the Deputy Superintendent, Horticulturist, Archaeological Survey of India, Konark Sub-Circle, Dist. Puri.
22. Baman Dalei, aged about 46 years, Son of Bhima Dalei, Working as Casual Worker, awarded with 1/30th Wages, under the Deputy Superintendent, Horticulturist, Archaeological Survey of India, Konark Sub-Circle, Dist. Puri.

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23. Kapila Nayak, aged about 40 years, Son of Dhruba Nayak, Working as Casual Worker, awarded with 1/30th Wages, under the Deputy Superintendent, Horticulturist, Archaeological Survey of India, Konark Sub-Circle, Dist. Puri.
24. Pabitra Kumar Kandi, aged about 46 years, Son of Babaji Kandi, Working as Casual Worker, awarded with 1/30th Wages, under the Deputy Superintendent, Horticulturist, Archaeological Survey of India, Konark Sub-Circle, Dist. Puri.
25. Narendra Kumar Swain, aged about 45 years, Son of Iswar Chandra Swain, Working as Casual Worker, awarded with 1/30th Wages, under the Deputy Superintendent, Horticulturist, Archaeological Survey of India, Konark Sub-Circle, Dist. Puri.
26. Bulakan Paikray, aged about 51 years, Son of Nabaghan Paikray, Working as Casual Worker, awarded with 1/30th Wages, under the Deputy Superintendent, Horticulturist, Archaeological Survey of India, Konark Sub-Circle, Dist. Puri.

.....Applicants

Advocate(s)-M/s- Ajit Kumar Choudhury, S.K. Rath.

VERSUS

Union of India represented through

1. Secretary, Ministry of Culture, Government of India, Shastri Bhawan, New Delhi-110001.
2. Director General, Archaeological Survey of India, Janpath, New Delhi-110011.
3. Chief Horticulturist, Archaeological Survey of India, Eastern Gate, Taj Mahal, Agra, Uttar Pradesh.
4. Deputy Superintendent, Horticulturist, Archaeological Survey of India, Division-IV, Satya Nagar, Bhubaneswar, Dist. Khurda.

..... Respondents

Advocate(s).....Mr. L. Jena



ORDER(Oral)

A.K. PATNAIK, JUDICIAL MEMBER

By filing the instant OA, the Applicants, claiming to have been working on casual basis with 1/30th wages under the Respondent-Organisation, have prayed the following relief:

“(i) to pass an appropriate order directing the Respondents i.e. more particularly Respondent No.4 to consider the written representations vide Annexure-A/4 series made by the applicants 2 to 26 for grant of temporary status and all consequential service benefits to which the applicants are entitled to with effect from the date of enjoyment of such benefits at par with other colleagues already awarded with temporary status, working under the administrative control of Respondent No.4 in accordance with the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1993 vide Annexure-A/2 read with the letter dated 16.8.2002 of the Archaeological Survey of India vide Annexure-A/3 within a reasonable period to be stipulated by this Hon’ble Tribunal .

(ii) To pass such other order (s)/directions calling for the relevant records from the department and to pass such other order(s) which would be deemed just and proper in the facts and circumstances of the case and allow the Original application”

2. By filing MA No. 358/2013 under Rule 4 (5)(b) of the Central Administrative Tribunal (Procedure) Rules, 1987 they have sought permission to prosecute this OA jointly.

3. Heard Mr. A.K.Choudhury, Learned Counsel appearing for the Applicants and Mr. L. Jena, Learned Additional CGSC for the Union of India appearing, on notice, for the Respondents both on the OA as also on MA. Considering the submissions of the respective parties, prayer made in the MA is allowed subject to payment of additional amount of Rs.50/- (except Applicant No.1) by each Applicants in shape of Postal order. Learned Counsel for the Applicants undertakes to submit the same within a period of two days hence. MA is accordingly allowed.

Alb

4. In so far as the Original Application is concerned the prayer of the Applicants for a direction to the Respondent No.4 to consider their grievance raised in the representations dated 13.01.2012 and 21.10.2011 at Annexure-A/4 series for grant of temporary status with reference to the Casual Labourers (Grant of Temporary Status and Regularization) Scheme, 1993 and letter dated 16.08.2002 under Annexure-A/3. I find a bar in entertaining this OA in absence of any impugned order as provided under Section 19 of the Administrative Tribunals Act, 1985 which reads as under:

“19. Applications to Tribunals – (1) Subject to other provisions of this Act, a person aggrieved by any order pertaining to any matter within the jurisdiction of a Tribunal may make an application to the Tribunal for the redressal of his grievances.

EXPLANATION – For the purpose of this sub section “order” means an order made –

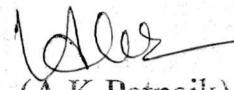
- (c) By the Government or a local or other authority within the territory of India or under the control of the Government of India or by any corporation (or society) owned or controlled by the Government; or
- (d) By an officer, committee or other body or agency of the Government or a local or other authority or Corporation (or Society) referred to in Clause (a).”

5. At the same time I find force in the contention of Learned Counsel for the Applicants that injustice has been caused due to not considering the grievance raised in the representations for such a long time. Redressal of grievance, at the hands of the Authority, at the first instance at the earliest opportunity besides being sine qua non, would minimize the expenses of the Department and would save the valuable time of the Court/Tribunal. In view of the above, especially keeping in mind the specific provisions of the A.T. Act, 1985 this OA would not have been entertained

[Signature]

and would have been dismissed at this admission stage itself but for the reason of the inaction of the Respondents in considering the grievance of the applicants for such a long time, by applying the law laid down by the Hon'ble Apex Court in the case of **S.S.Rathore -Vrs-State of Madhya Pradesh**, 1990 SCC (L&S) 50 (in paragraph 17), without expressing any opinion on the merit of the matter, this OA is disposed of at this admission stage with direction to the Respondent No.4 to take a decision on the said representations with reference to/keeping in mind the Casual Labourers (Grant of Temporary Status and Regularization) Scheme, 1993 and letter dated 16.08.2002 under Annexure A/3 and communicate the result thereof, in a well-reasoned order, at an early date, preferably within a period of sixty days from the date of receipt of copy of this order to each Applicants. If it is held that the applicants are entitled to the benefits as claimed then the same may be extended to them within a period of ninety days from the date of the order. If in the meantime, the representations so preferred has/have already been disposed of, the result thereof shall be communicated to the applicants within a period of fifteen days from the date of receipt of copy of this order. There shall be no order as to costs.

6. As prayed for by the Learned Counsel for the Applicants copy of this order be sent to the Respondent No.4 for compliance by speed post at his cost for which he undertakes to furnish the postal requisite by 6th December, 2013.


(A.K. Patnaik)
Member (Judicial)