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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

Original Application Number : 260/00894/2014

this the 4th day of October, 2016

Laxmidhar Dash ...Applicant

-VERSUS-

Union of India & Ors....Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? Yes
2. Whether it be referred to CAT, PB, New Delhi for being circulated to various Benches of the Tribunal or not ? Yes


(R.C.MISRA)
MEMBER(A)


(A.K.PATNAIK)
MEMBER(J)

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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO. 260 / 00894 / 2014

this the 04th day of OCTOBER 2016

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**HON'BLE SHRI A.K. PATNAIK, MEMBER(J)
HON'BLE SHRI R.C.MISRA, MEMBER(A)**

Laxmidhar Dash aged about 51 years S/o Late Shri Prafulla Kumar Dash, AT/PO Mahulia, P.S. Badamba, Dist. Cuttack at present continuing as Belder in the office of the Assistant Engineer, Bhubaneswar Central Sub Division No. 1, CPWD, Bhubaneswar-12, District Khurda.**Applicant**

**By the Advocate : Shri R.N.Acharya
-VERSUS-**

1-Union of India represented through its Secretary to Government of India, Ministry of Urban Housing Development Department, Lodhi Road, New Delhi-1.

2-Director General (Works), CPWD, Nirman Bhawan, New Delhi-1
3-Additional Director General, Eastern Zone, CPWD, 234/4, AJC Bose Road, Nizam Palace, Kolkata-20.

4-Chief Engineer(Civil), Central Public Works Department, Nirman Bhawan, Pokhariput, Bhubaneswar, District Khurda.

5-Superintendent Engineer (Civil), Central Public Works Department, Nirman Bhawan, Pokhariput, Bhubaneswar, Dist. Khurda.

6-Executive Engineer(Civil), Central Public Works Department, Bhubaneswar Central Division No.III, Unit-8, Bhubaneswar-12.

....**Respondents**

By the Advocate : Shri C.M.Singh

O R D E R

R.C.MISRA, MEMBER(A) :

The applicant in this O.A. is working as a Beldar in the office of Assistant Engineer in the Bhubaneswar Central Division No. 1 in the CPWD, and has approached this Tribunal praying for the following reliefs:

"(1) The order of rejection dated 7.10.2014 at Annexure - 8 of this O.A. may be quashed.

(2) The respondents may be directed to regularize the service of the applicant in a permanent cadre with effect from the date of his joining in any Group D/MTS category post.

(3) Direction may be issued to respondents to grant all service benefits to the applicant after regularization of service within a stipulated period."

2. Facts of this O.A. briefly stated are that the applicant was appointed as daily rated casual labourer (Beldar) on 10.02.1984 and was working as a skilled worker in a construction work under respondent No. 5, and to that effect a certificate was issued by the Assistant Engineer, CPWD, Bhubaneswar on 24.10.1994. This certificate placed in the O.A. at Annexure - 1 mentions that the applicant was working as Beldar on hand receipt / M.Roll since 1984 upto 1992 and working on work order since then under Sub Division No. 1 Bhubaneswar Central Division No.1, CPWD. The Executive Engineer, CPWD, Bhubaneswar (Respondent No. 5) requested the Superintending Engineer (Respondent No.4) to grant temporary status to the members of CPWD engaged on work order or muster roll basis as per the CPWD Manual Vol. III for W.C. Establishment Para 2.02 to fill up the vacancies, and the applicant Laxmidhar Dash was at serial No. 10 of the list of workers. It is shown that the applicant was working since the date 01.02.1992. Subsequently, by a Notification dated 16.11.2004 of the Executive Engineer, CPWD, temporary status was granted to the applicant in the initial cadre of Group D WC Establishment w.e.f. 01.11.2004. Since that date, the applicant is working as a Temporary Status Worker drawing regular salary. This is evident from the Pay Slip in respect of the applicant for December 2013 available at Annexure 4 of this O.A. The applicant along with some similarly placed temporary status workers made a representation



to respondents No. 4 and 5 on 15.11.2013 making a prayer for regularization of their services in terms of O.M. dated 28.03.1988 of the Department of Personnel and Training. The representationists cited the case of similarly placed workers in the Income Tax Department whose services were regularized on the basis of the above quoted O.M. of the Department of Personnel & Training. Due to alleged inaction of authorities in regularizing the services, the applicant approached the Tribunal in filing O.A. No. 299 of 2014. The Tribunal disposed of this O.A. at the stage of admission by an order dated 06.05.2014 directing the respondents to dispose of the representation in a reasoned and speaking order. In compliance of the orders of the Tribunal, respondent No. 5 disposed of the representation by an Office Order dated 07.10.2014 with an observation that the case of the applicant cannot be considered for regularization since the applicant was engaged on casual basis and conferred with temporary status, but was not recruited through regular selection process. The applicant in this second round of litigation has challenged the order dated 07.10.2014 placed at Annex.A-8 of the O.A.

3. The applicant has agitated his grievance on the following grounds :

The CPWD has a number of sanctioned Group D posts lying vacant which are not being filled up by the respondents. On the other hand, they are managing the work through temporary status workers like him, and depriving the applicant of his legitimate claim of being regularized in the department. On the other hand, the Income Tax Department being another Department under Government of India by issuing Office Order No. 72 of 2009 dated



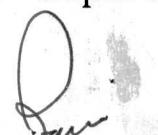
12.03.2009 has regularized temporary status workers, based upon the O.M. dated 28.03.1988 of the DOP&T. The Hon'ble Punjab and Haryana High Court in the case of ***State of Punjab a & Ors. Vs. Kulwant Singh and Ors.***, reported in 2005 (1) LLJ 329 has held that direction to regularize the services of workmen who worked for more than 10 to 17 years by creating posts for them was proper and justified. The Hon'ble Apex Court in the case of ***State of Karnataka and Ors. Vs. M.L.Kesari and Ors.***, has held that "irregular" appointments are entitled to regularization in terms of Para 53 of ***Umadevi's*** case, and that irregular appointments are distinguished from "illegal" appointments. Further, the Hon'ble Apex Court has held that "process of regularization as a one-time measure would not be complete till all eligible persons who have right to be considered in terms of Para 53 of ***Umadevi's*** case are considered, persons completing ten years of service but not fulfilling qualification of higher posts may be considered for regularization against suitable lower posts."

4. Further contention of the applicant is that the Division Bench of the Hon'ble High Court of Madras in the case ***of Union of India Vs. R. Paramasivam and Ors.*** reported in 2014(1) LLJ 633 dealt with the case of contingent night watchmen whose services were terminated based upon the decision to abolish all contingent posts. These contingent night watchmen approached the Tribunal, and the Tribunal allowed their applications with a direction given to the respondents to reinstate the applicants and absorb them against posts of night watchmen. This order was challenged before the Hon'ble High Court, and the High Court did not find anything illegal with the impugned order of the Tribunal, and dismissed the writ petition.



The applicant has invoked the various court decisions to plead that the respondents should have considered the case of the applicant for regularization following the ratio decided by the Courts.

5. The respondents in their counter affidavit have contested the claim of the applicant by submitting that the applicant has no right to be considered for regularization and the various court decisions cited would not come to his rescue. His claim of being engaged as Casual Worker from 10.02.1984 is denied, and it is submitted that the certificate issued by the Assistant Engineer is a formal one. He has not been able to produce any engagement letters in this regard. There is no doubt that temporary status was offered to applicant as per the CPWD Work-charged Establishment Manual, 2000, but the condition of this temporary status was that a casual labourer who had acquired temporary status will not be brought over to the permanent establishment, unless he is selected through a regular selection process for group D posts. The claim of the applicant that his service should be regularized because of his temporary status would not therefore be tenable. The respondents have complied with the orders of the Tribunal by disposing of the representation of applicant in terms of ratio of judgment of the Hon'ble Apex Court in the **Umadevi's** case. The position taken by respondents in the counter affidavit is that the order of regularization of temporary status workers by another department, viz., Income Tax Department is not binding upon the present respondents. The case of a casual worker working in one department would be different from the case of a casual worker working in another department. With these

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counter-arguments, the respondents have prayed for dismissal of the O.A.

6. The applicant has filed a rejoinder, in which he has re-emphasized the claim that he has been continuing against a vacant sanctioned post of Group-D category since 10.02.1984, the date of his engagement. He was also conferred temporary status, w.e.f. 01.11.2004. The respondents' organization had 17 nos. of vacancies as on 31.06.2003. Therefore, respondents can not take a plea that applicant did not continue against a vacant sanctioned post. The CPWD Work-charged Establishment Manual, 2000 provides that casual labourers have a right to be regularized as per Rule 8 (1) of the said Manual.

7. In the impugned order, respondents have taken a stand that as per decision of the Hon'ble Apex Court in the ***Uma Devi's*** case, only those casual labour recruited through the regular selection process for Group D post, can be regularized by the department. In the rejoinder, applicant has challenged this by asserting that even though the judgment in the ***Uma Devi's*** case was pronounced on 10.04.2006, the respondents after a gap of 9 years have not implemented the spirit of the ***Uma Devi's*** decision. Similarly placed casual labourers in the Income Tax Department, have been regularized following the ***Uma Devi*** decision, and in this regard order dated 12.03.2009 of the office of Chief Commissioner, Income Tax, Bhubaneswar, has been placed by the learned counsel of the applicant. On the basis of this, the learned counsel in the rejoinder has pleaded that CPWD, the respondents in the present case, should regularize similarly placed persons. It is also contended that the Hon'ble Apex Court in AIR 2013 SC 3574 in the case of ***Nihal Singh & Ors. Vs. State of Punjab and***



Ors., has held that the plea that there are no sanctioned posts to absorb appellants is not justified more so after permitting utilization of their services for a decade. With these submissions in the rejoinder, applicant has reiterated his prayer for regularization.

8. Having heard learned counsel of both sides, we have perused the records in respect of this O.A. The learned counsel for applicant has submitted that respondent-authorities have not properly considered the case of the applicant and have rejected the same by stating that he is not governed by the exceptions carved out in the judgment of the Hon'ble Apex Court in the **Uma Devi's** case. It is his further submission that applicant has been working under the Department since 1984 being granted temporary status in the year 2004 i.e. after 20 years of continuous service. The respondents have also sent the applicant for training and while doing so, they have mentioned that he was working in temporary capacity against the post of Beldar which is a sanctioned and vacant post. The applicant also is drawing his salary against the sanctioned post of Beldar and in this regard he draw our attention to Annex. A/4 which is his Salary-slip for the month of December 2013. According to the arguments placed by the learned counsel for applicant, he has acquired minimum requisite period of service and educational qualification for holding the regular post of Beldar. Moreover, in the Income Tax Department, the persons placed in similar situations have been regularized and present respondents also being Central Government Department, do not have any reason to refuse such relief to the applicant.





9. On the other hand, learned ACGSC representing the respondent – Department submitted that applicant was not working against any sanctioned post. He was engaged as a daily rated casual labourer in the year 1984. In this regard, the certificate issued by the Assistant Engineer on 24.10.1994 filed as Annex.A/1, is only a formal one which was issued to encourage casual workers to perform their duties more sincerely which does not confer any vested right for regularization of services. The Department is governed by the CPWD Worked Charge Establishment Manual, 2000 wherein, it has been stipulated that the Casual Labourer who acquired temporary status will not be brought on the permanent establishment unless they are selected through regular selection process of Group D posts. Since applicant was not regularly selected to a Group D post, his claim for regularization is not sustainable in the eye of law. The applicant had earlier filed OA bearing No. 299 of 2014 before this Bench wherein, respondents were directed to consider representation of applicant. The respondents considered the representation in the light of the judgment passed by the Hon'ble Supreme Court of India in the case of ***Uma Devi Vs. Secretary, State of Karnataka*** decided on 10.04.2006 and rejected the same vide order dated 07.10.2014 (Annex.A/8), The following portion of which they have quoted in the said order :

"2. Accordingly, the respondent authorities are required to implement the ibid orders of the Hon'ble CAT, Cuttack Bench, Cuttack. In the said circumstances the respondent authorities considered the case of the Petitioner in the light of the Hon'ble Supreme Court in its Judgment in the matter of Smt. Uma Devi vs. State of Karnataka delivered on 10.04.2006 has stated that :

"When a person enters a temporary employment or gets engagement as a contractual or casual worker and the engagement is not based on a proper selection as recognized by the relevant rules or procedure, he is aware of the consequences of the appointment being temporary, casual or contractual in nature. Such a person cannot invoke the theory of legitimate



expectation for being confirmed in the post when an appointment to the post could be made only by following a proper procedure for selection and in concerned cases, in consultation with the Public Service Commission. Therefore, the theory of legitimate expectation cannot be successfully advanced by temporary, contractual or casual employees. It cannot also be held that the State has held out any promise while engaging these persons either to continue them where they are or to make them permanent. The State cannot constitutionally make such a promise. It is also obvious that the theory cannot be invoked to seek a positive relief of being made permanent in the post."

10. It is further submitted by the learned ACGSC that decision of the Income Tax Department regarding regularization, as cited by the applicant, is not binding on respondents. The terms and conditions of the casual labourers working under the Income Tax Department are different from the terms and conditions in respect of the casual workers in the CPWD; therefore, these casual workers who are working in different departments, cannot ^{be} called as similarly situated or similarly placed. It is admitted by the respondent department that the applicant was sent for training after he attained temporary status (non-matriculate) as per the Recommendations of the VI Central Pay Commission as communicated by the DOP&T vide its Order dated 23.11.2012. With these arguments, the learned ACGSC has prayed that the case of applicant for regularization is not sustainable under the law.

11. It appears from the record that the applicant has been working as a Casual Labour in the respondent department since the year 1984 and he was conferred temporary status in the year 2004. The certificate dated 24.10.1994 issued by the Assistant Engineer of CPWD that the applicant was working as Beldar on hand receipt and muster roll from 1984 up to 1992 and since then also working under work order under the Sub Division I, Bhubaneswar Central Division I, CPWD goes to prove that the



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applicant's case of his working in the department on casual basis is genuine. By the order dated 16.11.2004 placed at Annex.A/3, the applicant was conferred with temporary status w.e.f. 1.11.2004. Another document has been placed before us which is at Annex. A/4. This is a pay slip for the month of December 2013 in respect of the applicant shown as temporary status. All these documents go to prove that the applicant's claim of working in the department from the year 1984 is genuine. Another important document which is placed at Annex. A/2 is a letter dated 03.06.2003 issued by the Executive Engineer, Bhubaneswar Central Division-I of CPWD to the Superintending Engineer, Bhubaneswar Central Circle, CPWD, mentions as follows :

"There are 17 No. vacancies of W.C. staff on various categories lying unfilled since long and the maintenance works are being run with the help of following casual workers engaged on various fields since long. As per D.G.W.'s letter No. 23/6/92-EC.X(Pt) dated 8.5.2002, no casual / daily rated worker in any form should be engaged and maintenance works should be got done through the existing workers of C.P.W.D. only. But the same is not possible as because the maintenance work can not be run smoothly due to shortage of staff and most of the staffs are working since 1988. As such necessary steps may please be taken to fill up the vacancies from the existing work order staff or to grant temporary status / as per rule of C.P.W.D. Manual Vol.-III for W.C. Establishment, Para-2.02 as per annexure enclosed."

12. The above contents of the letter clearly indicate that there were vacancies of Work Charge (WC) Staff of various categories and Executive Engineer had made a request to the Superintending Engineer to take necessary steps to fill up the vacancies from the existing work order staff. In the enclosure of this letter, the name of applicant Laxmidhar Das is shown at Sl.No.10, Therefore, submission of learned counsel for applicant that the department had vacancies is substantiated.

13. As already discussed in above paragraph, in the impugned order at Para No. 2, a paragraph from the judgment of **Uma**



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Devi's case, decided by the Hon'ble Apex Court, has been quoted. This paragraph indicates that the temporary contractual or casual employees will not have any vested right for regularization and the theory of legitimate expectation cannot also be advanced. The respondent department has not discussed the actual details of case of applicant in this order. They have further mentioned that the law laid down by the Hon'ble Apex Court forbids them to bring such casual labourer in the permanent establishment unless they are selected through regular selection process for Group D posts. The applicant has placed before us an order dated 12.03.2009 (Annex.A/9) issued by the Income Tax Department. Since both the departments are Central Government Departments being governed by the same Instructions of the Department of Personnel & Training with regard to temporary status and regularization of casual workers, it will be relevant to mention this order issued by the Office of the Chief Commissioner of Income Tax, Bhubaneswar. This order stipulates that following the judgment dated 10.04.2006 of Hon'ble Supreme Court in the case of **State of Karnataka Vs. Uma Devi and Ors.** and subsequent instructions issued to all Departments/Ministries of Government of India by the DOP&T vide their letter No. F.No.49019/1/2006-Estt. Dated 11.12.2006 and CBDT's directions communicated on 18.11.2008, the Chief Commissioner of Income Tax, Odisha had approved the names of some casual workers with temporary status, for appointment as Watchman in pay band of Rs. 4440-7440 with a Grade Pay of Rs. 1300/- It is, therefore, quite clear that Income Tax Department has taken a different view in the matter by following the Instructions of the DOP&T dated



11.12.2006 which again is based upon the well established law by the Hon'ble Apex Court in the said **Uma Devi's** judgment.

14. We have come across the O.M. dated 11.12.006 dated 11.12.2006 issued by the DOP&T and for purpose of convenience, this OM is quoted below :-

"1. The undersigned is directed to say that the instructions for engagement of casual workers enunciated in this Department's OM No. 49014/2/86 Estt.(C) dated 7th June, 1988 as amplified from time to time, inter-alia provided that casual workers and persons on daily wages should not be recruited for work of regular nature. They could be engaged only for work of casual or seasonal or intermittent nature, or for work which is not of full time nature for which regular post can not be created. Attention is also invited to this Department's OM No. 28036/1/2001-Estt.(D) dated 23rd July, 2001 wherein it was provided that no appointment shall be made on ad hoc basis by direct recruitment from open market.

2. A Constitution bench of the Supreme Court in civil appeal No. 3595-3612/1999 etc. in the case of Secretary State of Karnataka and Ors. Vs. Uma Devi and others has reiterated that any public appointment has to be in terms of the Constitutional scheme. However, the Supreme Court in para 44 of the aforesaid judgment dated 10.4.2006 has directed that the Union of India, the State Governments and their instrumentalities should take steps to regularize as a one time measure the services of such irregularly appointed, who are duly qualified persons in terms of the statutory recruitment rules for the post and who have worked for ten years or more in duly sanctioned posts but not under cover of orders of courts or tribunals. The Apex Court has clarified that if such appointment itself is in infraction of the rules or if it is in violation of the provisions of the Constitution, illegality cannot be regularized.

3. Accordingly the copy of the above judgment is forwarded to all Ministries / Departments for implementation of the aforesaid direction of the Supreme Court."

15. Para 2 of the aforesaid O.M. clearly mentions the directions of the Hon'ble Supreme Court in paragraph 44 of the judgment in the **Uma Devi's** case decided on 10.04.2006. This direction is that the Union of India, the State Governments and their Instrumentalities should take steps to regularize as a one time measure the services of such irregularly appointed, who are duly qualified persons in terms of the statutory requirement rules for the post and who have worked for ten years or more in duly



sanctioned posts but not under cover of orders of courts or tribunals. Further, if such appointment itself is in infraction of the rules or if it is in violation of the provisions of the Constitution, such illegality cannot be regularized.

16. We are quoting below paragraph 44 of judgment of the Constitution Bench of Hon'ble Supreme Court delivered in ***Secretary, State of Karnataka and Ors. Vs. Uma Devi and Ors.*** case decided on 10.04.2006 and reported in AIR 2006 SC 1806.

"44. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V. Narayanappa (supra), R.N. Narjundappa (supra) and B.N. Nayarayan (supra), and referred to in para 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more, but without the intervention of orders of Courts or of Tribunals. The question of regularization of the services of such employees may have to be considered on merits in the light of principles settled by this Court in the cases above referred to and in the light of this judgment. In that context, the Union of India, the State Gov'ts and their instrumentalities should take steps to regularize as a one time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of Courts or Tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up in cases where temporary employees or daily wages are being now employed. The process must be set in motion within six months from this date. We also clarify that regularization, if any already made, but not sub judice, need not be reopened based on this judgment, but there should be no further-by-passing of the Constitutional requirement and regularizing or making permanent, those not duly appointed as per the Constitutional scheme."

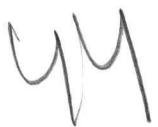
17. It is, therefore clear that the Hon'ble Apex Court has directed the Union Government and State Government and also their Instrumentalities to take steps for regularization of the services of persons who were irregularly appointed against sanctioned posts and have worked for 10 years or more. Such direction cannot apply to the cases where illegality has been committed or there has been violation of the provisions of the



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Constitution in the appointment. In case of "litigious employment" where, the continuance of a person in a post is under the orders of the Court, the directions for regularization will not apply. In the present case, it is quite evident that applicant has been continuing as a Casual Worker since the year 1984 and in 2004 temporary status was also conferred upon him. As it appears from the record, the Department has utilized his services continuously and there has not been any intervention of the Courts in the matter of his continuance, therefore the respondent department cannot throw-out his case 'lock, stock and barrel' when it comes to matter of regularization. The claim for regularization must be considered as per the directions issued by the DOP&T in their letter dated 11.12.2006 which has been taken on record and also quoted in full in the foregoing paragraphs. The respondent department cannot reject the case of applicant by quoting only one part of ***Uma Devi's*** judgment because based upon Para 44 of the same judgment, the DOP&T had issued certain specific Guidelines for regularization to be followed by all the Departments of the Government. The learned counsel for applicant has, therefore, correctly pleaded that after the pronouncement of the judgment of the Hon'ble Apex Court in ***Uma Devi's*** case and also consequent to issuance of Instructions by the DOP&T vide its letter dated 11.12.006, the respondent department has not taken any steps for implementation of the said instructions / guidelines. Therefore, we are of the considered view that the issue in hand regarding regularization of the services of the applicant, has apparently not been properly considered in the light of the said guidelines.





18. The matter of regularization of Casual Labour and Daily Wagers as well as Ad hoc employees has been elaborately clarified in the matter of ***State of Karnataka and Ors. Vs. M.L. Kesari and Ors.*** decided on 3rd August, 2010 by the Hon'ble Apex Court as reported in (2010) 2 SCC (L&S) 826. The relevant part of the said judgment is quoted below :

"8.Umadevi casts a duty upon the Government or instrumentality concerned, to take steps to regularize the services of those irregularly appointed employees who had served for more than ten years without the benefit or protection of any interim orders of courts or tribunals, as a one-time measure. Umadevi directed that such one-time measure must be set in motion within six months from the date of its decision.

9. The term "one-time measure" has to be understood in its proper perspective. This would normally mean that after the decision in Umadevi, each department or each instrumentality should undertake a one-time exercise and prepare a list of all casual, daily-wage or ad hoc employees who have been working for more than ten years without the intervention of courts and tribunals and subject them to a process verification as to whether they are working against vacant posts and possess the requisite qualification for the post and if so, regularize their services.

10. At the end of six months from the date of decision in Umadevi, cases of several daily-wage/ad hoc / casual employees were still pending before courts. Consequently, several departments and instrumentalities did not commence the one-time regularization process. On the other hand, some government departments or instrumentalities undertook the one-time exercise excluding several employees from consideration either on the ground that their cases were pending in courts or due to sheer oversight. In such circumstances, the employees who were entitled to be considered in terms of para 53 of the decision in Umadevi, will not lose their right to be considered for regularization, merely because the on-time exercise was completed without considering their cases, or because the six-month period mentioned in para 53 of Umadevi has expired. The one-time exercise should consider all daily-wage/ad hoc / casual employees who had put in 10 years of continuous service as on 10.4.2006 without availing the protection of any interim orders of courts or tribunals. If any employer had held the one-time exercise in terms of para 53 of Umadevi, but did not consider the cases of some employees who were entitled to the benefit of para 53 of Umadevi, the employer concerned should consider their cases also, as a continuation of the one-time exercise. The one-time exercise will be concluded only when all the employees who are entitled to be considered in terms of para 53 of Umadevi, are so considered.

11. The object behind the said direction in para 53 of Umadevi is twofold. First is to ensure that those who have put in more than ten



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years of continuous service without the protection of any interim orders of courts or tribunals, before the date of decision in Umadevi was rendered, are considered for regularization in view of their long service. Second is to ensure that the departments / instrumentalities do not perpetuate the practice of employing persons on daily-wage/ ad hoc / casual basis for long periods and then periodically regularize them on the ground that they have served for more than ten years, thereby defeating the constitutional or statutory provisions relating to recruitment and appointment. The true effect of the direction is that all persons who have worked for more than ten years as on 10.4.2006 [the date of decision in Umadevi] without the protection of any interim order of any court or tribunal, in vacant posts, possessing the requisite qualification, are entitled to be considered for regularization. The fact that the employer has not undertaken such exercise of regularization within six months of the decision in Umadevi or that such exercise was undertaken only in regard to a limited few, will not disentitle such employees, the right to be considered for regularization in terms of the above directions in Umadevi as a one-time measure."

19. In view of the discussion above, and particularly in view of the judgments of the Hon'ble Apex Court in the matter, we have no hesitation to hold that the respondent- Department have not considered the prayer for regularization of the applicant in conformity with the extant guidelines, and as per the law established in this regard in the pronouncements of the Hon'ble Apex Court. We, therefore, quash the order dated 07.10.2014 issued by the respondents and direct the respondents to reconsider the matter of regularization in the light of the observations of the Tribunal given above and communicate the decision to applicant in a speaking order within a period of 90 days of receiving a copy of this order.

20. The O.A. is thus disposed of with the above observations and directions with no order as to costs.


(R.C.MISRA)
MEMBER(A)

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(A.K.PATNAIK)
MEMBER(J)