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**CENTRAL ADMINISTRATIVE TRIBUNAL : JODHPUR BENCH
AT JODHPUR.**

O.A.No.297/2010

13.7.
Date of Order: .2012

**HON'BLE MR.SUDHIR KUMAR MEMBER(A)
HON'BLE MR.AJAY KUMAR MEMBER(J)**

1. **INDER SINGH CHOUHAN**
S/o Shri Babu Kalka Mata Mandir,
Working as Peon (Casual Labour),
ITO, TDS-II,
Jodhpur.

2. **SURENDRA BHATI,**
S/o Shri Kishan Lal,
Aged about 34 years,
R/o Shiv Mandr Ratanada,
Working as Peon (Casual Labour),
ITO Ward No.III(2)I, Jodhpur.

...Applicants

(By Advocate Shri Kamal Dave)

Vs.

1. Union of India,
Through The Secretary,
Ministry of Finance,
Department of Revenue,
Government of India,
New Delhi.

2. The Chief Commissioner of Income Tax,
Central Revenue Building,
Bhagwan Das Road,
Jaipur.

3. The Chief Commissioner of Income Tax,
Paota 'C' Road,
Jodhpur.

...Respondents

(By Advocate Varun Gupta)

V. 2 - answer

ORDER

(V.AJAY KUMAR, MEMBER(J))

When this matter came up for hearing, the learned Counsel for both sides represented that the facts and law involved in this OA are similar to that of OA No.249/2009 and same orders may be passed in this OA also. This Tribunal disposed of the said OA No.249/2009 by its order dated 24.5.2012 and after observing the facts and law of the case, passed the following orders in that OA.

"8. We have considered the facts of the case. The respondent department is already undertaking the process of regularization of all eligible Casual Labourer employees of long standing in their department as per Uma Devi's case (supra). The Hon'ble Apex Court had held in the case of Commissioner Corporation of Madras Vs. Madras Corporation Teachers Mandram: 1977 1 SCC 253 that Courts cannot direct the Government to create posts or to change its policy. Further, in the case of Union of India v. T.P. Bombahate: (1991) 3 SCC 1, it was held by the Hon'ble Apex Court that Court cannot compel the Government to change its policy which involves financial burden on it. Further, in the case of State of U.P. Vs. Ajay Kumar: (1977) 4 SCC 88, the Hon'ble Apex Court had held that there must exist a post, and either administrative instructions or statutory rules must be in operation to appoint a person to the post working on a daily wage basis, otherwise the Courts cannot direct for regularization of his services.

9 In such circumstances, since the department itself is in the process of undertaking an exercise of regularization of all those persons whose cases are covered within the ambit of the Hon'ble; Apex Court directions in Uma Devi's case (supra), it does not appear necessary for this Tribunal to issue any directions at this stage, to frame a particular policy for a particular person, who may or may not be covered under the law as laid down by the Hon'ble Apex Court in Uma Devi's case.

10. Therefore, the OA is disposed of, but with directions to the respondents to examine the case of the applicant expeditiously, within the frame work of the Scheme drafted by the department for implementing the directions of the Hon'ble Apex Court in Uma Devi's case (supra). There shall be no order as to costs. If the applicant is still

V. ? - anur

RLC
AMP 23/8

RLC
27/7/12