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**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH AT JODHPUR**

**Original Application No.203/2012**

Jodhpur, this the 02<sup>nd</sup> April, 2013

**CORAM**

**HON'BLE MR. JUSTICE KAILASH CHANDRA JOSHI, MEMBER (J)**  
**HON'BLE MS. MEENAKSHI HOOJA, MEMBER (A)**

Kulvir Chand S/o Shri Gopi Ram, aged about 39 years, R/o village and post Bhagwansar, District Sri Ganganagar (Rajasthan). Presently working on the post of Electrician in the office of GE (AF), Suratgarh, District Sri Ganganagar (Raj.).

.....Applicant

**Mr. S.K.Malik, counsel for applicant.**

**Vs.**

1. Union of India, through the Secretary, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Commander Works Engineer (AF) Bikaner (Rajasthan).
3. Garrison Engineer (AF), Suratgarh, District Sri Ganganagar (Rajasthan).

...Respondents

**Mr. Mohd. Sajeed for**  
**Mr. Sanjeet Purohit, counsel for respondents.**

**ORDER (ORAL)**

**Per Justice K.C. Joshi, Member (J)**

By way of this application, the applicant has sought the following relief (s):-

- "(a) *by an appropriate writ order or direction, respondents may be directed to absorb/regularize the services of applicant on the post of Electrician with all consequential benefits.*
- (b) *Any other relief which is found just and proper be passed in favour of applicant in the interest of justice by the Hon'ble Tribunal."*

2. The short facts for deciding this application are that as averred in the application the applicant possesses qualification of

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Secondary School examination from Rajasthan Board, Ajmer and a I.T.I. certificate in Electrical Trade and being fully eligible for the appointment on the post of Electrician was employed on the post of Electrician through contractor for execution of work of respondent No.3 w.e.f. 05.01.001 on fixed salary of Rs.1500/- and was allotted the work in Power House of respondent No.3. He was also issued a security pass by the defence authority. There is no gap in service since the date of appointment of the applicant. A number of contractors have changed in the papers but the services of the applicant are in continuation without there being any break in service. The fixed salary given to the applicant has been enhanced from Rs.1500/- to 3500/- w.e.f. 01.01.2003 and from Rs.3500/- to 6000/- w.e.f. 01.01.2010. The duty roster is prepared by respondent No.3 to work in shift as per the system of the office of respondent No.3. The applicant was issued experience and character certificates by various authorities of the respondents from time to time, which have been annexed with the OA as Annexures- A/5 to A/13. On 09<sup>th</sup> January, 2012, the applicant moved an application for giving him regular service looking to his long experience and by giving age relaxation, which was recommended by the respondent No.3 as at Annexure-A/5. The respondent department in spite of the recommendation made by the Garrison Engineer (AF) Suratgarh, is not regularizing the services of the applicant, hence the present OA has been filed by the applicant.

3. By way of counter, the respondents denied the claim of regularization of the applicant, and further averred that his

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services were made available through contractor which are of temporary nature. Therefore, no relation as employer and employee has ever been in existence between the applicant and the respondent department, and hence no right of regularization has accrued in favour of the applicant.

4. Counsel for the applicant contended that work of the Electrician is perennial in nature and in spite of the change of the contractors, the services of the applicant remained without any break and he has continuously served before the respondent No.3 and in spite of the recommendation at Annexure-A/15, the respondent department is not taking any action, therefore, the respondents may be directed to regularize the services of the applicant as electrician from the date of his initial appointment.

5. Per contra, learned counsel for the respondents contended that in view of the fact that he was engaged through a contractor and therefore, no right of regularization accrues to the applicant.

6. Counsel for the applicant in support of his arguments, relied upon the judgment of Hon'ble Supreme Court in the case of ***Railway Parcel and Goods Handling Mazdoor Union and Ors. Vs. Union of India & Ors.*** reported in 2004 SCC (L&S) 114, in which the Hon'ble Apex Court ordered the Assistant Labour Commissioner to conduct an enquiry and to submit report that whether both petitioners were working continuously, and work performed by them were of perennial nature or not; and in view of the report submitted by the Assistant Labour Commissioner, the Hon'ble Apex Court directed the respondents to regularize their

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services subject to being medically fit and below the age of superannuation.

7. We have considered the judgment cited by the counsel for the applicant and the judgment of ***State of Karnataka and Ors. vs. Uma Devi & Ors.*** reported in 2006 (4) SCC 1, in which it was held that in cases of such persons appointed through the contractors, no such right of regularization exists in such employees. And for the contractual employees, part time workers, and other workers, the Hon'ble Apex Court held that their services cannot be regularized. As in the present case, a representation of the applicant duly recommended by the competent authority at Annexure-A/15 is pending before the concerned authority, we therefore direct that the concerned authority shall decide the representation of the applicant within three months from the date of receipt of a copy of this order in view of the law laid down by the Hon'ble Apex court. Further, the respondents are directed to pass a reasoned and speaking order thereafter as per law and to inform the applicant accordingly.

8. With these observations, the OA is disposed of. No order as to costs.

  
[Meenakshi Hooja]  
Administrative Member

  
[Justice K.C. Joshi]  
Judicial Member