

संख्या दि: मुल्क ३१७

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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

O.A.Nos. 470 and 471/2012

Date of decision: 23.11.2012

CORAM :

HON'BLE Mr. B.K.SINHA, ADMINISTRATIVE MEMBER

1. Gopal Kasara s/o Shri Panna Lal Kasara, aged about 36 years, at present employed as Casual Computer Operator in the office of, DCIT, C.C.-1, Udaipur O/o the JCIT, Central Range, Udaipur
2. Mukesh Gayri s/o Shri Vardi Chander Gayri, aged about 30 years, at present employed as Casual Computer Operator in the office of ACIT, C.C.-2, Udaipur O/o the JCIT, Central Range, Udaipur
3. Harish Lakshkar s/o Shri Labh Chand Lakshkar, aged about 33 years, at present employed as Casual Computer Operator in the office of JCIT, C.C.-1, Central Range, Udaipur
4. Ms. Priyanka Soni d/o Shri Arun Ji Swarnkar, aged about 24 years, at present employed as Casual Computer Operator in the office of JCIT, Central Range, Udaipur
5. Moti Lal Dangi s/o Shri Puraji Dangi,, aged about 39 years, at present employed as Casual Peon in the office of JCIT, C.C.-1, Central Range, Udaipur
6. Roop Lal Dangi s/o Shri Dhulaji Dangi, aged about 36 years, at present employed as Casual Peon in the office of JCIT, C.C.-1, Central Range, Udaipur
7. Rekha Gehlot w/o Rajesh Gehlot, aged about 36 years, R/O- H M Sec 5, Banjara Basti, Udaipur, at present employed as Casual Sweeper in the office of JCIT, C.C.-1, Central Range, Udaipur
C/o Gopal Kasara, .5, Kasara Ki Ol, Jagdish Chowk Road, Udaipur.

..... Applicants in OA No. 470/2012

1. Pushkar Lal Dangi S/o Sh. Udai Lal Dangi, aged about 32 years, at present employed as Casual Driver, in the office of DDIT, Inv-1, Udaipur O/o the Addl. DIT, Inv. Udaipur.
2. Balu Ram Dangi S/o Ram Lal Dangi, aged about 25 years, at present employed as Casual Peon in the office of DDIT, Inv-2, Udaipur O/o the Addl. DIT, Inv. Udaipur.
3. Vijay Lohar S/o Kishan Lal Lohar, aged about 36 years, at present employed as of Casual Peon, in the office of the Addl. DIT, Inv. Udaipur.
4. Poonam Chand Meena S/o Sh. Narayan Lal Meena, aged about 25 years, at present employed as of Casual Peon, in the office of DDIT, Inv-1, Udaipur O/o the Addl. DIT, Inv. Udaipur.

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5. Smt Sushila Bai Sonawat W/o Shyam Lal Sonawat, Aged about 45 years, at present employed as of Casual Sweeper, in the office the Addl. DIT, Inv. Udaipur.
 6. Kamlesh Verma S/o Late Shri N.L. Verma, aged about 52 years, at present employed as of Casual Computer Operator in the office of the DDIT, Inv-2, Udaipur O/o the Addl. DIT, Inv. Udaipur
 7. Yashwant Joshi S/o Late Shri Mohan Lal Ji Joshi, aged about 31 years, at present employed as Casual Computer Operator in the Office of DDIT, Inv.-1, Udaipur, O/o the Addl. DIT, Inv. Udaipur.
 8. Rajendra Kumar Sen S/o Shri Laxmi Lal Sen aged about 38 years, at present employed as Casual Computer Operator in the Office of Addl. DIT, Inv. Udaipur.

C/o Pushkar Lal Dangi S/o Shri Udai Lal Dangi, Village Manprua, Post Lakhawali, Udaipur.

..... Applicants in OA No. 471/2012
[By Mr. J.K.Mishra, Advocate]

Versus

1. Union of India through Secretary, Central Board of Direct Taxes, Ministry of Finance, Government of India, North Block, New Delhi.
2. Commissioner of Income Tax (Central), 2nd Floor, New C.R. Building (Annexe), Statue Circle, B.D. Road, Jaipur.
3. Joint Commissioner of Income Tax (Central Range), 3rd Floor, Mumal Towers, 16, Saheli Marg, Udaipur.

..... Respondents in both the OAs.

ORDER (Oral)

Heard the learned counsel for the applicants who are employed on different posts under the respondents. The grievance of the applicants is that they have been working under the respondents on different posts as indicated in Para No. 2 of the O.A. and they are discharging ancillary duties assigned to them from time to time for more than 8 hours a day. Their grievance arises from a communication of respondent No. 2 to the 3rd respondent on the basis of which the applicants apprehend that their services will be terminated. The relevant Para Nos. 3 and 4 of the order dated 19.10.2012 (Annex.A/1) are reproduced below :-

"3. Accordingly, the reference made by the ACIT, CC-2, Udaipur, vide his letter dated 21.09.2012 may also be acted upon by filing a Writ against the order of the Hon'ble CAT, Jodhpur Bench dated 14.08.2012 after following necessary procedure. The standing counsel may also be requested to press the stay of operation on above order of CAT, because if it is reversed by Hon'ble High Court in future, the recovery of additional amount paid to Data Entry Operators / Casual Workers in pursuance of order of Hon'ble CAT will be extremely difficult.

4. I am also directed to inform you that the JCIT, Central Range, Udaipur has been nominated as Nodal Officer for coordinating engagement of services of Data Entry Operators / Casual Workers for Udaipur charge, in respect of Central Investigation and Intelligence & Criminal Investigation Wings of Udaipur Charge. I am also directed to draw his kind attention towards para 3 of the minutes of meeting dated 17.10.2012, wherein the role of Nodal Officer has been defined."

2. From the communication as aforesaid, there appears to be a reasonable apprehension that the Department may consider termination of applicants. I find that identical matters have been dealt with earlier by this Tribunal vide its order dated 29.10.2012 delivered in O.A. No. 17/2012 **Mahendra Singh & Ors. Vs. UOI and Orr. and a batch.** However, in view of the apprehension expressed by the applicants, both these OAs are remanded back to the respondent No. 2 for consideration in the light of the aforementioned order of the Tribunal delivered in **Mahendra Singh and Ors. Vs. UOI & Ors.** (supra) on 29th October, 2012, by means of a speaking order. It is further directed that respondents will not terminate the services of the applicants till such decision is taken.

3. With the aforesaid directions both the OAs are disposed of at the stage of admission.

COMPARED &

Rera

(B.K. Sinha)
Administrative Member

CERTIFIED TRUE COPY

Dated 26.11.2012

S.R. Sharma

mehta

SECRETARY
CENTRAL INVESTIGATION
WING
UDAPIUR CHARGE
UDAPIUR