

केएटी (प्रक्रिया) नियमावली के नियम 22 के अन्तर्गत नि: भुल्क प्रति

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH**

**O.A.No. 54/2012 and O.A. No. 68/2012**

Jodhpur, this the 1<sup>st</sup> day of January, 2013

**CORAM:**

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

Nena Ram S/o Shri Khanga Ji  
aged 40 years Part-time Waterman,  
Head Post Office, Jalore, resident of 8,  
Shastri Nagar, Jalore.

..... Applicant in both OAs

[Through Mr. Vijay Mehta, Advocate]

**Versus**

1. Union of India through the Secretary, Ministry of Communication (Department of Post), Sanchar Bhawan, New Delhi.
2. Superintendent of Post Offices, Sirohi.
3. Head Post Master, Head Post Office, Jalore.

..... Respondents in both OAs

[Through Mr. Vinit Mathur along with Mr. Ankur Mathur Advocates]

**OA 54/2012:**

This OA is directed against the Memo No.A2/CAT Case/Jalore/2010 dated 3.2.2012 of the Superintendent of Post Offices, Sirohi Division, Sirohi informing the applicant that in absence of any provisions his services cannot be regularized.

The applicant has prayed for the following relief(s):

*"The applicant prays that impugned orders Annexure.A1 may kindly be quashed and the respondents may kindly be directed to regularize the services of the applicant from the year 1989 when the applicant completed the service as per the provisions contained in order Annexure.A5 or from another date, as deemed fit with all consequential benefits. The respondents may also be directed to mark the attendance of the applicant in attendance*



***register of the Head Post Office, Jalore. Any other order, as deemed fit giving relief to the applicant may kindly be passed. Costs may also be awarded to the applicant."***

***Case of the applicant:***

3. The applicant submits that he was appointed as Part Time Waterman in the year 1986 in Head Post Office, Jalore. However no written appointment order was given to the applicant. He was discharging the duties continuously and used to mark attendance register of the staff of Head Post Office. Payment of salary was received by applicant by signing a receipt/voucher. Earlier when his services were terminated, the applicant filed OA 78/2010. This Tribunal vide order dated 28.11.2011 [A3] allowed the OA and quashed the termination of the applicant directing respondents to take back the applicant in service on 1.12.2011.

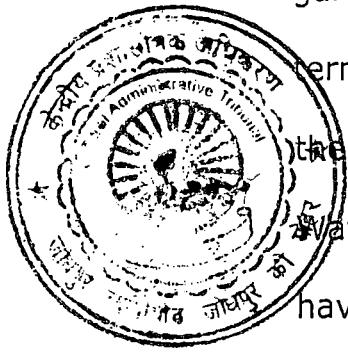
The Tribunal, in its order dated 28.11.2011 held that since the applicant had been working with the respondents for a quarter of century and more, he acquired a right to be considered for continued employment and regularization and directed regularization on filing a representation by the applicant. The applicant was reinstated on 21.12.2011. He was, however, not allowed to mark his attendance. He has produced an order dated 17.5.1989 (Department of posts), which provides that part time casual labour and contingent paid staff are casual labour for all purposes and for purpose of recruitment to Group-D employees, such part-time and contingent paid employees should be given priority. The applicant submits that he has worked for 240 days during a year and was entitled to temporary status and



regularization. Applicant further submits that impugned order [A/1] has been passed without considering the observations made by this Tribunal in its order in OA 78/2010. No opportunity was given to the applicant of being heard before passing the impugned order. The learned counsel for the applicant also argued that other benches of this Tribunal, the Hon'ble Rajasthan High Court and Hon'ble Supreme Court have time and again held that a person who has served for more than ten years is entitled to be regularized.

***Stand of the respondents:***

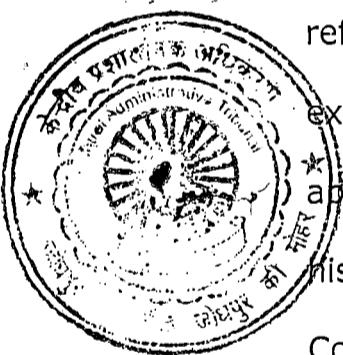
4. The respondents filed a reply statement opposing the prayer of the applicant. They submit that there is no sanctioned post of Waterman at Head Post Office, Jalore and only contingent paid employees are engaged for duties of sweeper, waterman, gardener, 'Farash' on temporary basis and their services can be terminated at any time without any notice. They also state that the applicant was not appointed on the post of part time Waterman in the Head Post Office, Jalore in the year 1986. They have denied the applicant's contention that he has marked attendance with the regular departmental employees. On the basis of the orders of this Tribunal the applicant was taken back and he attended duty on 21.12.2011. Regarding the direction of the Tribunal to consider regularization of the applicant, respondents state that it is not possible under the Rules to regularize his services as there is no provision to regularize the services of part time contingent paid employees. It was



stipulated in the letter of Department of Posts dated 17.5.1989 that the Group D posts (now re-designated as Multi Tasking Staff) to be filled up either by NTC(Non Test Category) Group-D or that of EDA of the Division in as much as the casual labourers had been assigned third priority in the matter of recruitment. Since there is no Group-D post vacant, the casual labourers part-time or full time cannot be regularized. The Scheme dated 12.4.1991 mentioned by the applicant for granting temporary status is for such of the casual labourers who were full time casual labourers as on 29.1.1989 but before 11.9.1993. The respondents state that the applicant was not a full time casual labour working for eight hours a day and the applicant cannot be held entitled either for conferring temporary status of full time casual labourer or regularization of his services on the basis of scheme introduced vide order dated 12.4.1991. They have referred to a case decided by the Jaipur Bench in OA 225/2010 exactly similar to this case, in which the Tribunal held that applicant was not entitled as a matter of right for regularization of his services in view of the ratio laid down by the Hon'ble Supreme Court in the case of **Secretary State of Karnataka Vs. Uma Devi** (2006 SCC (L&S) 753). On the above grounds, respondents pray for dismissal of this OA.

***Case of the applicant in the rejoinder:***

5. The applicant was not paid daily, whereas he was paid on monthly basis, which is evident from the records of the department



itself. This indicates that the applicant has also reiterated most of the contentions in the OA in his rejoinder.

### **OA 68/2012 (Nena Ram)**

6. This OA is directed against the Memo No.A2/40/Ch.II dated 21.2.2012 of the Superintendent of Post Offices, Sirohi Division, Sirohi terminating the services of the applicant as Part--time Contingent paid Waterman, Jalore H.O. and A/2 of the Head Post Master, directing him not to attend the duties with the following reliefs :

*"The applicant prays that impugned orders Annexure.A1 and Annexure A2 may kindly be quashed and the respondents may kindly be directed to reinstate the applicant with continuity of service and back wages. Any other order, as deemed fit giving relief to the applicant may kindly be passed. Costs may also be awarded to the applicant."*

#### **Case of the applicant:**

The applicant in this case has followed the arguments in OA 54/2012. This Tribunal vide order dated 28.11.2011 [A3] had quashed the termination of the applicant directing respondents to take back the applicant in service on 1.12.2011 on the ground that the applicant had been working with the respondents for a quarter of century and more, he had acquired a right to be considered for continued employment and regularization. The applicant was reinstated on 21.12.2011, without being allowed to mark his attendance. He has produced of Department of Posts order dated 17.5.1989, which says that part time casual labour and contingent paid staff are casual labour for all purposes and



for purpose of recruitment to Group-D employees, such part-time and contingent paid employees should be given priority. Applicant submits that he has worked for 240 days during a year and was entitled to temporary status. However, the representation of the applicant for regularization was rejected vide order dated 3.2.2012 and the respondents terminated his services again vide order dated 21.2.2012 based on orders dated 24.9.2010 and 19.11.2010 which is under challenge in this OA. The applicant has challenged the order dated 3.2.2012 by filing OA 54/2012. The applicant states that his termination on the basis of Annexure.A/6 & A/7 is arbitrary and discriminatory and is violative of Arts.14 and 16 of the Constitution as the applicant has been deprived of his job and service without having followed the mandatory provisions of natural justice. The termination was done without having considered the observations made in the order of this Tribunal dated 28.11.2011 in OA 78/2010 [A/3] and against the principles well established by various courts that casual labour serving for more than 10 years acquires a right to be considered for regularization.

***Stand of the respondents:***

8. The respondents filed a reply statement opposing the prayer of the applicant. Their preliminary objection is that case falls within the provisions of Industrial Disputes Act of 1947 and, hence, the Industrial Tribunal shall have jurisdiction to entertain such matters. On merit they submit that there is no sanctioned post of Waterman at Head Post Office, Jalore and only contingent

paid employees are engaged for duties of sweeper, waterman, gardener, farash on temporary basis and their services can be terminated at any time without any notice. The respondents have refuted the contention of the applicant that he has marked attendance with the regular departmental employees. On the basis of the orders of this Tribunal the applicant was taken back and he attended duty on 21.12.2011. Regarding the direction of the Tribunal to consider regularization of the applicant, respondents state that it is not possible under the Rules to regularize his services as there is no provision to regularize the services of part time contingent paid employees. In the Department of Posts letter dated 17.5.1989 it was stipulated that the Group-D posts (now re-designated as Multi Tasking Staff) to be filled up either by NTC(Non Test Category) Group D or that of EDA of the Division in as much as the casual labourers had been assigned third priority in the matter of recruitment. Since there is no Group-D post unfilled, the casual labourers part-time or full time cannot be regularized. The Scheme dated 12.4.1991 mentioned by the applicant for granting temporary status was meant for such of the casual labourers who were full time casual labourers as on 29.1.1989 but before 11.9.1993. The respondents state that the applicant was not a full time casual labour working for eight hours a day and the applicant cannot be held entitled either for conferring temporary status of full time casual labourer or regularization of his services on the basis of scheme introduced vide order dated 12.4.1991. The respondents



have also referred to a case decided by the Jaipur Bench in OA 225/2010 exactly similar to this case, in which the Tribunal held that applicant was not entitled as a matter of right for regularization of his services in view of the ratio laid down by the Hon'ble Supreme Court in the case of Secretary State of Karnataka Vs. Uma Devi. Since the duties of waterman, watch and ward, gardener, cleaning etc. were transferred to Multi Tasking Staff and orders were issued accordingly the services of the applicant was terminated as per departmental orders and the action of the respondents is not arbitrary or illegal. On the above grounds, respondents pray for dismissal of this OA.

***Case of the applicant in the rejoinder:***

9. The averment that the Industrial Tribunal has jurisdiction to entertain this case has been denied by the applicant stating that this Tribunal itself held that cases involving industrial Disputes Act are maintainable in this Tribunal. The applicant was not paid daily, whereas he was paid monthly, which is evident from the records of the department itself. The applicant has also reiterated most of the contentions in the OA in his rejoinder.

***Facts in issue:***

10. I have carefully gone through the pleadings of the rival parties in both these cases and have also listened to the arguments put forth by the respective counsels and on the basis thereof, I find the following facts in issue emerges :



- 1- **Whether the case of the applicant is covered by the letter No. 45-98/87-SPB-I dated 12.04.1991 from the D.G.(Posts), New Delhi dealing with the Casual Labours (Grant of Temporary Status & Regularization) Scheme?**
- 2- **Whether the termination of the applicant as per the orders dated 21.02.2012 in OA No. 68/2012 is justified in view of the findings in OA No. 54/2012 ?**
- 3- **What relief, if any, could be granted to the applicant ?**

**Whether the case of the applicant is covered by the letter No. 45-98/87-SPB-I dated 12.04.1991 from the D.G.(Posts), New Delhi dealing with the Casual Labours (Grant of Temporary Status & Regularization) Scheme?**

11. In respect of issue No. 1, the admitted position is that the applicant has been working since the year 1986 onwards. A Division Bench of this Tribunal vide its order dated 28.11.2011 in O.A. No. 78/2010, had expressed that this was a claim made by the applicant but had not been substantiated as the respondents being the custodians of the documents had failed to produce the same. The Division Bench of the Tribunal has held as under:-



**"Going by the Additional Affidavit and documentations produced by the respondents, it would appear that in fact the applicant had been working in the respondent department as a part time Water Man, but even though it is not clear as to whether he was working in the year 1986 onwards as has been claimed by him. We have earlier directed the respondents to produce the aquitance register and payment register from the year 1986 to 2010 in respect to the applicant, which would establish that in fact payment has been made to him on a particular date onwards. But in spite of their efforts, they have not produced the same even as they are the custodians of it and have a bounden burden to produce the documents or suffer adverse presumptions."**

12. In view of the inability to produce the records in proof of applicant's date of engagement, the presumption of facts will arise that the applicant has been working from the year 1986 onwards as has been claimed by him.

13. The next question that would arise is that on what basis, the applicant had been working. This question had also been dealt with in OA No. 78/2010 vide order dated 28.11.2011 [A/3] and the findings of the Tribunal is that the applicant was working on monthly payment basis. The relevant part of the order states as under:-

*"2. But now they would admit that the monthly payment had been given to the applicant and through their reply they submit that the applicant himself voluntary terminated his own service, and it is not possible for them to appoint a contingent paid employee on a regular basis, as he was engaged purely on a daily basis wages. We have gone through all the connected documents, and heard both the counsels, and found that infact according to the additional affidavit, the respondents submit that infact the applicant had been working with them, and the earlier contentions may not be factually correct. Since the respondents now admit this position, we have decided to leave it at that.*

3. *The Article 39 of the Constitution of India stipulates that the policy of the State shall be formulated in accordance with the directive principles. and also that the citizens, men and women equally, have the right to an adequate means to livelihood, that the health and strength of workers are not abused, and that citizens are not forced by economic necessity to enter avocations unsuited to their strength. If the applicant was working with the respondents for a quarter of a century and more, as stated by him, them by virtue of that alone, he acquires a right to be considered for continued employment, unless other significant matters do not interdict it. The Articles 41, 42 and 43 of the Constitution of India are also significant in the present matrix. We are advised that the Hon'ble Apex Court, in Uma Devi's case and other connected cases, which formulated a policy that once a person completed 10 years or more in service on daily wages, his case may be considered for continued employment. Therefore, in view of principles formulated by the Hon'ble Apex Court, the following orders are passed :-*

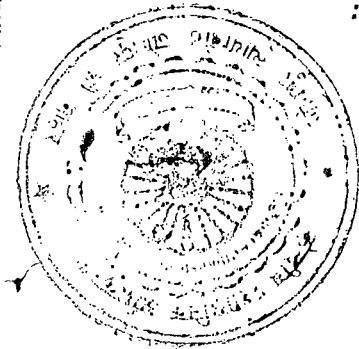
- (i) The applicant shall be taken back in service as on 01<sup>st</sup> December, 2011, on the post which he was holding earlier.*
- (ii) Since he was not working in the interregnum period, therefore, he would not be entitled for any wages for that period.*



*(iii) The respondents shall consider whether it is possible under the rules to regularize his services and, after hearing him, pass an appropriate order."*

14. Now, I come to the crux of the issue that whether the instant cases are fit for regularization of the applicant. In OA No. 78/2010, the D.B. had been confronted with a similar question that if the applicant was working with the respondents for a quarter of a century and more, then by virtue of that alone, he acquires a right to be considered for continued employment, unless other significant matters do not interdict it. The D.B. of this Tribunal has held as under:-

*"We are advised that the Hon'ble Apex Court, in Uma Devi's case and other connected cases, which formulated a policy that once a person completed 10 years or more in service on daily wages, his case may be considered for continued employment. Therefore, in view of principles formulated by the Hon'ble Apex Court, the following orders are passed :-*



*(i) The applicant shall be taken back in service as on 01<sup>st</sup> December, 2011, on the post which he was holding earlier.*

*(ii) Since he was not working in the interregnum period, therefore, he would not be entitled for any wages for that period.*

*(iii) The respondents shall consider whether it is possible under the rules to regularize his services and, after hearing him, pass an appropriate order."*

15. It had, however, left to the good judgment of the competent authority to consider whether it was possible under rules to regularize the services of the applicants and pass an appropriate order after having heard on the subject. The respondents have held in their order dated 3.2.2012 as under:-

“वर्तमान रथापित नियमों के अन्तर्गत आपकी सेवाओं को नियमित नहीं किया जा सकता है तथा इस प्रकार का कोई प्रावधान भी नियमों में नहीं है”

16. It needs to be examined what the rules/circulars of the Department provide in this regard? The relevant circular in this regard has been placed at A/5 dated 12.4.1991 which itself is known as ***Casual Labourers (Grant of Temporary Status and Regularization) Scheme (for short "the Scheme")***. This Scheme provides as under:-

**1. "Temporary status would be conferred on the casual labourers in employment as on 29.11.89 and who continue to be currently employed and have rendered continuous service of at least one year. During the year, they must have been engaged for a period of 240 days (206 days in the case of offices observing five day's weeks).**

**2 Such casual workers engaged for full working hours viz. 8 hours including ½ hour's lunch time will be paid at daily rates on the basis of the minimum of the pay scale for a regular Group 'D' official including DA, HRA & CCA."**



17. The Scheme further goes ahead to provide that after having rendered three years' continuous service after conferment of temporary status, the casual labourers would be treated at par with a temporary Group-D employee for the purpose of contribution of GPF and would be eligible for, Festival / Flood Advance on the same conditions as are applicable to the temporary Group-D employees. Paragraphs 12 and 17 of the said Scheme provide :

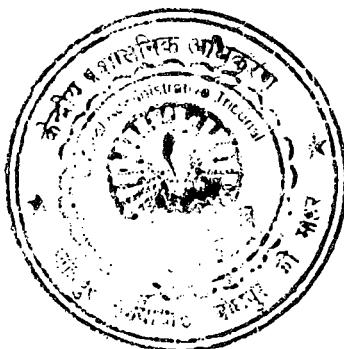
**"12. Casual labourers may be regularized in units other than recruiting units also, subject to availability of vacancies.**

**17. No recruitment from open market for Group 'D' posts except compassionate appointments will be done till**

*casual labourers with the requisite qualification are available to fill up the posts in question."*

18. However, the respondents have strongly resisted this claim of the applicant for regularization that this scheme was desiring to give temporary status to only such of the casual labourers who were in full time employment as casual labour as on 29.11.1989 and who had rendered continuous service of at least one year at that time. This scheme was subsequently extended to those casual labourers who have been recruited after 29.11.1989 but, before 11.9.1993 as defined in Para 2 of the scheme and the Casual Labourers were those who were engaged for full working hours i.e. 8 hours including ½ an hour lunch time. Para 4.8 of the reply statement is reproduced below:

*"4.8 That the contentions raised in para 4.8 of the original application are denied and in reply, it is submitted that as already explained in reply to preceding paras, recruitment of a casual labourer on the post of Group - D in accordance with the instructions contained in department of post's letter dated 17.5.1989 was not possible unless a post of group - D was left unfilled after offering it first to the NTC Group - D officials and thereafter to the EDAs (now called as GDS) of the Division as the casual labourers were accorded third priority in the matter of appointment on these posts. In so far as the question regarding granting temporary status of full time casual labourer, In accordance with scheme of department introduced vide order dated 12.4.1991, as contained by the applicant in this para, is concerned, it is submitted that scheme was intended to give temporary status to only such of the casual labourers who were full time casual labourers as on 29.11.1989 and who had rendered continuous service of at least one year by that time. This scheme was subsequently extended to those casual labourers also who had been recruited after 29.11.1989 but before 11.9.1993. As defined in the scheme, the full time casual labourers were those who were engaged for full working hours viz. 8 hours including half hour's lunch time. The reference of number of working days viz. 240 days or 206 days in a year has appeared in the scheme only for the purposes of determining length of continuous service of concerned worker as full time casual labourer. This determination as to whether or not any worker is full time casual labourer was to be done only on the basis of this fact as to whether he was engaged for full working hours i.e. 8 hours in a*



day or not. If any worker was not being engaged for full working hours, then he was not to be treated as a full time casual labourer as per the scheme. As already stated above, the fact relating to number of days for which a casual labourer is engaged in a year, was relevant only in the matter of deciding the length of service of the concerned casual labourer. Further, from the act of restructuring the scheme only for the full time casual labourers who were recruited prior to 11.9.1993, it is clear that this scheme was only a one time scheme and any part time casual labourer who acquires the status of full time casual labourer by way of enhancement in his daily working hours after this date i.e. 11.9.1993, can not be held entitled to get temporary status in pursuance of this scheme irrespective of his being included in the definition of full time casual labourer. The temporary status was to be conferred to only those casual labourers who were full time during the period from 29.11.1989 to 10.9.1993. Thus, in view of the position explained above, the applicant can not be held entitled either for conferring temporary status of full time casual labourer or regularization of his services, on the basis of scheme introduced vide order dated 12.4.1991 as he was not a full time casual labourer at the relevant point of time. He is not a full time casual labourer even now."

19. The acid test for determination is that whether or not any worker is a full time casual labourer. This test could only be performed on the basis of the fact that whether he was being engaged for full working hours i.e. 8 hours in a day. Where any worker was not being engaged for full working hours then he was not to be treated as a full time casual labour as per the scheme. Admittedly, the applicant was appointed as part-time Watermen in the Head Post Office, Jalore in 1986, therefore, he does not fall within this category.

**Whether the termination of the applicant as per the orders dated 21.02.2012 in OA No. 68/2012 is justified in view of the findings in OA No. 54/2012 ?**

20. This issue deals with the termination of the services which have been made 10 days following the request of the applicant for regularization. It is true that the applicant is only a part-time casual labour who is not entitled to regularization. It is equally

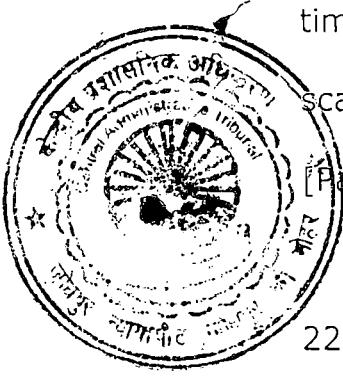


true that he has been working since 1986. Where a person has worked for this long a period he has acquired as per the circular quoted above a right to regularization. The services of the applicant cannot be wiped-out so easily vide means of oral orders. A job particularly with some Government organization is a precious commodity.

21. The applicant has stated in his rejoinder affidavit that temporary status was required to be granted as per A/5 to such employees who were in employment on 29.11.1989 and had been engaged for a period of 240 days. The argument of the learned counsel is that such workers irrespective of the fact that whether he was part time or full time stood to be conferred temporary status. Provision (2) of the scheme would come into place once he had been employed as casual worker. He would then be required to work for full working time including ½ hour's lunch time and will be paid at daily rates on the basis of minimum pay scale for regular Group-D official including TA, HRA and CCA.

[Para 4 of the rejoinder affidavit from page 39].

22. A plain reading of the order would reveal that indeed no such distinction has been made while granting temporary status between part-time and full time employees. It merely mentions ***Temporary stratus would be conferred on the casual***



**workers in employment as on 29.11.1989."** Under these circumstances, the benefit of doubt goes to the applicant.

23. In the epic judgment of **Secretary, State of Karnataka and Others Vs. Uma Devi (3) and Ors.** reported in 2006 SCC (L&S) 753, the Hon'ble Supreme Court has held as under :-

*"52. Normally, what is sought for by such temporary employees when they approach the court, is the issue of a writ of mandamus directing the employer, the State or its instrumentalities, to absorb them in permanent service or to allow them to continue. In this context, the question arises whether a mandamus could be issued in favour of such persons. At this juncture, it will be proper to refer to the decision of the Constitution Bench of this Court in Rai Shivendra Bahadur (Dr.) v. Governing Body of the Nalanda College. That case arose out of a refusal to promote the writ petitioner therein as the Principal of a college. This Court held that in order that a mandamus may issue to compel the authorities to do something, it must be shown that the statute imposes a legal duty on the authority and the aggrieved party had a legal right under the statute or rule to enforce it. This classical position continues and a mandamus could not be issued in favour of the employees directing the Government to make them permanent since the employees cannot show that they have an enforceable legal right to be permanently absorbed or that the State has a legal duty to make them permanent.*

53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in *S.V. Narayanappa, R.N. Nanjundappa and B.N. Nagarajan* 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 the 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 the 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 Governments 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 the courts or of 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 wagers 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 bypassing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme."*

24. It is an admitted fact that the appointment of the applicant had been made as a casual labour following the due procedure including verification from the Collector. Hence, the question of the appointment being irregular is not under issue. By now, the law is well settled. Considering the fact that no irregularity in appointment has been alleged by the respondents and that the case of the respondents appears to have been covered under Circular dated 12.04.1991 it is held that the applicant was eligible for being conferred with temporary status. As per Paragraph 8 of the same circular, the employee who have become at par with a temporary Group-D employee for the purpose of contribution of GPF and for advances. Paragraph 8 reads:



*"8. After rendering a three year's continuous service after conferment of temporary status, the casual labourers would be treated at par with temporary group 'D' employees for the purpose of contribution of General Provident Fund. They would also further be eligible for the grant of festival advance/floor advance on the same conditions as are applicable to temporary group 'D' employees, provided they furnish two sureties from permanent Govt. servants of this Department."*

25. It is further noted that the regularization would have also taken place subject to the availability of vacancies as per paragraph 12 of the scheme which also bars recruitment from the open market. I estimate that the regularization of the applicant would have taken place by now.

Whether the termination of the applicant as per the orders dated 21.02.2012 in OA No. 68/2012 is justified in view of the findings in OA No. 54/2012 ?

26. In view of the findings in respect of the issue No. 1, the issue No.2, whether the termination of the applicant as per the orders dated 21.02.2012 in OA No. 68/2012 is justified in view of the findings in OA No. 54/2012 has become automatically covered. It is held unequivocally that the termination is outright illegal and against the spirit of own orders and the scheme of the department.

*What relief, if any, could be granted to the applicant ?*

27. In view of the discussions on the aforesaid issues, it can be safely deduced that the applicant was eligible for regularization which has been denied to him on account of a flawed understanding of the scheme dated 12.4.1991. Had this Scheme been correctly followed by now the applicant would have been regularized. Hence, the O.A. is allowed with the following directives:-

- (i) *That the impugned order dated 3.2.2012 is hereby quashed as being bad under the law.*
- (ii) *The respondents are being directed to regularize the services of the applicants as per the terms laid down in the scheme at Annex.A/5 within a period of six months.*
- (iii) *The termination order at Annex.A/1 in OA no. 68/2012 is also being quashed as bad under the law. The applicant will be taken back on service and will mark attendance till regularization of his services take place.*
- (iv) *There shall be no order as to costs.*

COMPARED &  
CHECKED  
*Par*

CERTIFIED TRUE COPY  
Dated...3.1.2013.....  
*Smt. Sh. Sinha*  
Section Officer (P.M.)  
The Secretary, Inspector  
Central Administrative Tribunal  
Court of the State  
Lokayukta, Jodhpur

(B K Sinha)