CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH AT JODHPUR

Original Application Nos.17/2012, 109/2012, 12/2012, 113/2012, 119/2012, 120/2012, 121/2012, 314/2012, 375/2012, 78/2012, 98/2012, 110/2012, 111/2012, 112/2012, 01/2012, 123/2012, 124/2012, 135/2012, 563/2011, 37/2012, 52/2012, 53/2012, 85/2012 and 86/2012

AND

MA No.115/2012 in OA No.123/2012, MA No.116/2012 in OA No.124/2012, MA No.156/2012 in OA No.112/2012 and MA No.117/2012 in OA No.135/2012

Date of decision: 29-10-2012

CORAM

HON'BLE MR. G. GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE MR. B.K.SINHA, ADMINISTRATIVE MEMBER

(1) OA No.17/2012

1. Mahendra Singh S/o Late Shri Amar Singh Tak, aged about 35 years, R/o Plot No.95A, Niyala Bera, Magra Punjla, Jodhpur, Rajasthan (at present working as Peon (Casual Labour) Chowkidar CCIT Jodhpur).
2. Shailendra Singh Shankhla S/o Shri Surendra Singh Shankhla, R/o Manak Chowk, Jodhpur, Rajasthan. (at present working as Peon (Casual Labour) Range-II Ward-II, CIT-I Jodhpur).
3. Mahendra Gurjar S/o Late Shri Kishan Lal Gurjar, R/o Plot No.173, Sardarpura 1st C Road, Jodhpur Rajasthan. (at present working as Peon (Casual Labour) Additional Range-III CIT Jodhpur).
4. Surendra Bhati S/o Shri Kishori Lal Bhati, R/o Opposite Shiv Mandir, Ratanada, Jodhpur, Rajasthan. (at present working as Peon (Casual Labour) Ward (1) CIT-II Jodhpur.
5. Arun Kumar S/o Shri Hansraj Ji, R/o H.No.55, Prithvipura, Rasala Road, Jodhpur, Rajasthan. (at present working as Peon (Casual Labour) Ward-3 (1) CIT-II Jodhpur).
6. Raju S/o Late Shri Bhanwar Lal, R/o Plot No.29, Shankar Nagar, Sangaria Fata, Jodhpur, Rajasthan (at present working as Peon (Casual labour) Ward-3 (2) CIT-II Jodhpur).
7. Indra Singh Chouhan S/o Shri Babu Singh Chouhan, R/o Maderana Colony Near Kalka Mata Mandir, Jodhpur, Rajasthan. (at present working as Peon (Casual Labour) ITO (TDS)-II Jdohpur).
8. Rajendra Gurjar S/o Late Shri Kishan Lal Gurjar, R/o Plot No.173, Sardarpura 1st C Road, Jodhpur, Rajasthan. (at present working as Peon (Casual Labour) Joint, Range-I, CIT-I, Jodhpur).

.....Applicants

(By Advocate Mr. P.S. Bhati).

Vs.

1. Union of India through the Secretary, Ministry of Finance, Department of Revenue, Government of India, New Delhi.
2. Chief Commissioner of Income Tax, Central Revenue Building, Bhagwan Das Road, Jaipur.
3. Chief Commissioner of Income Tax, Paota 'C' Road, Jodhpur.

...Respondents

(By Advocate Mr. R.P.Mathur and Mr. Varun Gupta).

2. OA No.109/2012

1. Chandra Prakash Rankawat S/o Shri Dewa Das Ji, B/c Brahmin, aged about 27 years, R/o Umed Chowk, Gokul Niwas, Jodhpur.
2. Deep Singh Badagurjar S/o Shri Bhanwar Singh ji, B/c Rajput, aged about 34 years, R/o Near Mata Ji Temple, Maderna Colony, Jodhpur.
3. Kushal Singh Badgurjar S/o Shri Bhanwar Singh Ji, B/c Rajput, aged about 34 years, R/o Near Mata Ji Temple, Maderna Colony, Jodhpur.
4. Amrav Dan Charan S/o Shri Bhanwar Dan Ji, B/c Charan, aged about 29 years, R/o V&P Shinda Teria, Shergarh, District Jodhpur.
5. Praveen Singh Bhati S/o Shri Madan Singh Ji, B/c Rajput, aged about 30 years, R/o Inside Hem Singh Ji Ka Katla, Maha Mandir, Jodhpur.
6. Purakh Das Vaishnav S/o Shri Dhan Das Ji, B/c Brahmin, aged about 32 years, R/o Village-Binjvariya Via Tiawri, District Jodhpur.
7. Shankar Lal Parmar S/o Shri Mana Ram Ji, B/c Ghanchi, aged about 36 years, R/o Village –Tilar Nagar, Plot No.93, Maha Mandir, Jodhpur.

All applicants are employed as Casual Labour in the Jodhpur Office under Control of Respondent No.3 i.e. Chief Commissioner of Income Tax, Paota C Road, Jodhpur.

.....Applicants

(By Advocate Mr. Nitin Trivedi).

Vs.

1. The Union of India, through Secretary to Government of India, Central Board of Direct Taxes, Ministry of Finance, Dept of Revenue, North Block, New Delhi.
2. The Chief Commissioner of Income Tax, Central Revenue Building, Statue Circle, Bhagwan Das Road, Jaipur.
3. The Chief Commissioner of Income Tax, Paota C Road, Jodhpur.
4. The Assistant Commissioner of Income Tax (HQ Office of Commissioner Income Tax II, Paota C Road Jodhpur.

...Respondents

(By Advocate Mr. R.P.Mathur and Mr. Varun Gupta).

3. OA No.12/2012

1. Anil Kumar Solanki S/o Shri Bhanwar Lal Solanki, aged about 26 years, R/o H.No.8, Baldev Nagar, Mata Ji Ka Than Road, Mangra Poonjla, Mandore, Jodhpur, at present employed on the post of Peon in the office of Commissioner of Income Tax-II, Jodhpur.
2. Jaideep Solanki S/o shri Nirmal Solanki, aged about 30 years, R/o "Mohan Villa" Opp. Gokul Niwas, Umed Chowk, Jodhpur, at present employed on the post of Computer Operator, in the Office of Income Tax Officer, Ward-3 (1), Jodhpur.
3. Ugam Singh S/o Shri Chandra Singh, aged about 33 years, R/o Near Kalka Mandir, Maderna Colony, Jodhpur, at present employed as Casual Computer Operator in the office of Income Tax Officer (Tech), Jodhpur.
4. Jagdish Singh Rathore S/o Shri Mangu Singh, aged about 31 years, R/o Near Kalka Maderna Colony, Jodhpur, at present employed as Casual Computer Operator in the office of Income Tax Ward-1(1), Jodhpur.
5. Deepak Parihar S/o Shri Dhanraj Parihar, aged about 23 years, R/o Maliyon Ki Dhani, Pipar Road, Jodhpur, at present employed on the post of Peon, in the office of Assistant Commissioner of Income Tax (HQ), O/o Commissioner of Income Tax-II, Jodhpur.

.....Applicants

(By Advocate Mr. J.K.Mishra).

Vs.

1. Union of India through Secretary to Government of India, Ministry of Finance, Department of Revenue, North Block, New Delhi.
2. Chief Commissioner of Income Tax (CCA), C.R. Building, Statute Circle, B.D. Road, Jaipur.
3. Chief Commissioner of Income Tax, Paota 'C' Road, Jodhpur.

...Respondents

(By Advocate Mr. R.P.Mathur and Mr. Varun Gupta).

4. OA No.113/2012

1. Suresh Kumar S/o Shri Kishan Chand Ji, B/c Kalal, aged about 36 years, R/o Kalal Colony, Street No.9, Jodhpur.
2. Mohd. Irfan S/o Late Shri Mohd. Gulfam Ji, B/c Muslim, aged about 25 years, R/o Ada Bazar, Mochiyon Ki Ghati, Opposite Niwargaro Ki Maszid, Jodhpur.
3. Naresh Gehlot S/o shri Mohan Lal Ji, by caste Mali, aged about 22 years, R/o Baldev Nagar, Mata Ji Ka Than, Mangra Punjala, Jodhpur.

4. Tabish Anwar S/o shri Anwar Hussain Ji, by caste Muslim, aged about 24 years, R/o 164, Mohan Nagar A BJS Colony, Jodhpur.
5. Gajendra Gurjar s/o shri Puna Ram ji, B/c Choudhary, aged about 24 years, R/o Income Tax Colony, Mandore Road, Jodhpur.

Applicants are at present employed as Casual Labour in the Jodhpur Office under control of Respondent No.3 i.e. Chief Commissioner of Income Tax, Paota C Road, Jodhpur.

5. OA No.119/2012

Jagdish Solanki S/o Shri Lal Chand Ji, by caste Ghanchi, aged about 37 years, R/o Babu Laxman Singh Colony, Near Apsara Ladies Tailor, Outside III Pol, Jodhpur and at present employed as Casual Labour in the Jodhpur Office under control of Respondent No.3 i.e. Chief Commissioner of Income Tax, Paota C Road, Jodhpur.

6. OA No.120/2012

1. Daulat S/o Shri Suraj Ji, by caste Sargara, aged about 26 years, R/o Opposite Maha Mandir Railway Station, Ram Bagh Scheme, Jodhpur.
2. Lalit S/o Shri Gouri Shankar Ji, by caste Mehra, aged about 24 years, R/o Jaswant Ki gali, Batasagar, Jodhpur.
3. Pradeep Singh S/o Shri Sawai Singh Ji, B/c Rajput, aged about 23 years, R/o Sadar Bazar, Dhan Mandi, Jodhpur.
4. Hans Raj Khichi S/o Shri Tulsi Ram Ji, B/c Khichi, aged about 21 years, R/o Kalal Colony, Nagori Gate, Jodhpur.
5. Santos Chandel S/o Shri Tara Chand Ji, by caste Chandel, aged about 28 years, R/o Kalal Colony, 4th Street, Nagori Gate, Jodhpur.

All applicants are employed as Casual Labour (Peon & Chowkidar) in the Jodhpur Office under control of Respondent No.3 i.e. Chief Commissioner of Income Tax, Paota C Road, Jodhpur.

.....Applicants in OA 113,119, 120 of 2012
(By Advocate Mr. Nitin Trivedi).
Vs.

1. The Union of India, through Secretary to Government of India, Central Board of Direct Taxes, Ministry of Finance, Dept of Revenue, North Block, New Delhi.
2. The Chief Commissioner of Income Tax, Central Revenue Building, Statue Circle, Bhagwan Das Road, Jaipur.
3. The Chief Commissioner of Income Tax, Paota C Road, Jodhpur.
4. The Assistant Commissioner of Income Tax (HQ Office of Commissioner Income Tax II, Paota C Road Jodhpur.

...Respondents in OA 113,119, 120 of 2012
(By Advocate Mr. R.P.Mathur and Mr. Varun Gupta).

7. OA No.121/2012

1. Kishore S/o Shri Puran Das Ji, B/c Harijan, aged about 20 years, R/o Inside Jalori Gate, Safila Harizan Basti, Jodhpur.
2. Narendra Kumar S/o Shri Kishore Singh Ji, B/c Rajput, aged about 22 years, R/o Ganeshpura, Street No.2, Hanuman Ji Temple, Ratanada, Jodhpur.

Applicants are at present employed as Casual Labour Sweeper and Peon respectively in the Jodhpur Office under control of Respondent No.3 i.e. Commissioner of Income Tax (Computer Operation), Central Revenue Building, Statute Circle, Jaipur.

.....Applicants

(By Advocate Mr. Nitin Trivedi).
Vs.

1. The Union of India, through Secretary to Government of India, Central Board of Direct Taxes, Ministry of Finance, Dept of Revenue, North Block, New Delhi.
2. The Chief Commissioner of Income Tax, Central Revenue Building, Statue Circle, Bhagwan Das Road, Jaipur.
3. The Commissioner of Income Tax (Computer Operations), Central Revenue Building, Statute Circle, Jaipur.
4. The Income Tax Officer/DDO (Systems), Office of Income Tax, Paota C Road, Jodhpur.

...Respondents
(By Advocate Mr. R.P.Mathur and Mr. Varun Gupta).

8. OA No.314/2012

1. Shankar Lal Parmar S/o Shri Mana Ram Ji, B/c Ghanchi, aged about 36 years, R/o village Tilak Nagar, Plot No.93, Maha Mandir, Jodhpur.
2. Kushal Singh Badgurjar S/o Shri Bhanwar Singh Ji, B/c Rajput, aged about 34 years, R/o Near Mata Ji Temple, Maderna Colony, Jodhpur.
3. Mohd. Irfan S/o Late Shri Mohd. Gulfam Ji, B/c Muslim, aged about 25 years, R/o Ada Bazar, Mochiyon Ki Ghati, Opposite Niwargaro Ki Maszid, Jodhpur.

All Applicants were employed as Casual Labour in the Jodhpur Office under control of Respondent No.3 i.e. Chief Commissioner of Income Tax, Paota C Road, Jodhpur.

.....Applicants

(By Advocate Mr. Nitin Trivedi).
Vs.

1. The Union of India, through Secretary to Government of India, Central Board of Direct Taxes, Ministry of Finance, Dept of Revenue, North Block, New Delhi.
2. The Chief Commissioner of Income Tax, Paota C Road, Jodhpur.
3. The Assistant Commissioner of Income Tax (HQ Office of Commissioner Income Tax II, Paota C Road, Jodhpur.

...Respondents

(By Advocate Mr. R.P.Mathur and Mr. Varun Gupta).

9. OA No.375/2012

1. Suresh Kumar S/o Shri Rames Kumar Ji, B/c Brahmin, aged about 28 years, R/o Gudirya Jav, pilkani Nadi, Sumerpur.
2. Ramesh Kumar S/o shri Gopi Lal, B/c Chipa, aged about 30 years, R/o Gandhi Chowk, Sardar Patel Marg, Jalore.
3. Dinesh Vaishnav S/o Shri Hari Ram Ji, B/c Brahmin, aged about 22 years, R/o railway Colony, Mokalsar, District Barmer.
4. Raju Ram s/o Shri Amra Ji, B/c Mali, aged about 35 years, R/o Behind FCI Godown, Jalore.
5. Chandra Prakash S/o Shri Rameshwar Lal Ji, B/c Ramawat, aged about 24 years, R/o Azad Chowk, Ramawat Street, Barmer.

All Applicants are employed as Daily Wager/ Casual Labour in the Sumerpur, Jalore and Barmer Income Tax Office under control of Respondent No.2&3 i.e. Chief Commissioner of Income Tax & Commissioner of Income Tax-II Paota C Road, Jodhpur.

.....Applicants

(By Advocate Mr. Nitin Trivedi).

Vs.

1. The Union of India, through Secretary to Government of India, Central Board of Direct Taxes, Ministry of Finance, Dept of Revenue, North Block, New Delhi.
2. The Chief Commissioner of Income Tax, Paota C Road, Jodhpur.
3. The Commissioner of Income Tax-II Paota C Road, Jodhpur.

...Respondents

(By Advocate Mr. R.P.Mathur and Mr. Varun Gupta).

10. OA No.78/2012

1. Tikam Chand Sen S/o Shri Gordhan Lal B/c Sen, aged about 28 years, R/o Gangri Cowk, Mithri, Tehsil- Nawa City, District Nagaur and at present employed as Casual Peon in the office of Income Tax office (DD)) Makrana, District- Nagaur.
2. Hukam Chand Sen S/o shri Gordhan Lal, B/c Sen, aged about 25 years, R/o Gangri Chowk, Mithri, Tehsil Nawa

City, District Nagaur and at present employed as Casual Chowkidar in the office of Income Tax Office (DDO) Makrana, District Nagaur.

.....Applicants

(By Advocate Mr. Nitin Trivedi).

Vs.

1. The Union of India, through Secretary to Government of India, Central Board of Direct Taxes, Ministry of Finance, Dept of Revenue, North Block, New Delhi.
2. The Chief Commissioner of Income Tax, Central Revenue Building, Statute Circle, Bhagwan Das Road, Jaipur.
3. The Chief Commissioner of Income Tax, Paota C Road, Jodhpur.
4. The Income Tax Officer, Makrana, District Nagaur.

...Respondents

(By Advocate Mr. R.P.Mathur and Mr. Varun Gupta).

11. O.A No.98/2012

1. Jitendra Kachwaha S/o Shri Mishri Lal Ji, B/c Darji, aged about 30 years, R/o Near Raj Mahal Middle School, Ajay Chowk, Jodhpur.
2. Bhawani Singh S/o Shri Kuku Singh Ji, B/c Rajput, aged about 26 years, R/o Quarter No.1125, New Railway DS Colony, Saraswati Nagar, Jodhpur.
3. Rajendra Parihar S/o Shri Om Prakash Ji, B/c Darji, aged about 39 years, R/o Chamunda Mata Colony, Opposite Maha Mandir Railway Station, Maha Mandir, Jodhpur.
4. Prem Prakash S/o shri Pura Ram Ji, By caste Choudhary, aged about 24 years, R/o Income Tax Colony, Mandore Road, Jodhpur.
5. Rakesh Puri S/o Shri Govind Puri Ji, B/c Puri, aged about 24 years, R/o village Kalawas, Post Birani, Tehsil Bhopalgarh, District Jodhpur.

All applicants are at present employed as Casual labour in the Jodhpur Office under control of Respondent No.3 i.e. Chief Commissioner of Income Tax, Paota C Road, Jodhpur.

.....Applicants

(By Advocate Mr. Nitin Trivedi).

Vs.

1. The Union of India, through Secretary to Government of India, Central Board of Direct Taxes, Ministry of Finance, Dept of Revenue, North Block, New Delhi.
2. The Chief Commissioner of Income Tax, Central Revenue Building, Statute Circle, Bhagwan Das Road, Jaipur.
3. The Chief Commissioner of Income Tax, Paota C Road, Jodhpur.
4. The Assistant Commissioner of Income Tax, Office of Commissioner Income Tax II, Paota C Road, Jodhpur.

...Respondents

(By Advocate Mr. R.P.Mathur and Mr. Varun Gupta).

12. OA No.110/2012

1. Jagdish Singh Rathore, S/o Shri Mangu Singh Ji, B/c Rajput, aged about 32 years, R/o Kalka Mandir, Krishi Mandi, Jodhpur.
2. Anil Kumar Solanki S/o Shri Bhanwar Lal Ji, B/c Mali, aged about 27 years, R/o House No.8, Baldev Nagar, Jodhpur.
3. Jaideep Solanki, S/o Shri Nirmal Ji, B/c Darji, aged about 31 years, R/o Godul Niwas, Umed Chowk, Jodhpur.
4. Ugam Singh Solanki, S/o shri Chadra Singh Ji, B/c Charan, aged about 34 years, R/o Near Kalka Mandir, Maderna Colony, Jodhpur.
5. Deepak Parihar S/o Shri Dhan Raj Ji, B/c Mali, aged about 23 years, R/o Maliyon Ki Dhani, Pipar Road, Jodhpur.

All applicants are employed as Casual Labour in the Jodhpur Office under Control of Respondent No.3 i.e. Chief Commissioner of Income Tax, Paota C Raod, Jodhpur.

.....Applicants

(By Advocate Mr. Nitin Trivedi).

Vs.

1. The Union of India, through Secretary to Government of India, Central Board of Direct Taxes, Ministry of Finance, Dept of Revenue, North Block, New Delhi.
2. The Chief Commissioner of Income Tax, Central Revenue Building Statute Circle, Bhagwan Das Road, Jaipur.
3. The Chief Commissioner of Income Tax, Paota C Road, Jodhpur.
4. The Assistant Commissioner of Income Tax (HQ Office of Commissioner Income Tax II, Paota C Road, Jodhpur.

...Respondents

(By Advocate Mr. R.P.Mathur and Mr. Varun Gupta).

13. OA No.111/2012

Kamal Pal S/o Shri Babu Lal Ji, B/c Mali, aged about 39 years, R/o Near Rai Ka Bagh Palace, Hotel Bachhan Niwas, Jodhpur at present employed as Casual Labour in the Jodhpur office under control of Respondent No.3 i.e. Chief Commissioner of Income Tax, Paota C Road, Jodhpur.

.....Applicants

(By Advocate Mr. Nitin Trivedi).

Vs.

1. The Union of India, through Secretary to Government of India, Central Board of Direct Taxes, Ministry of Finance, Dept of Revenue, North Block, New Delhi.

2. The Chief Commissioner of Income Tax, Central Revenue Building, Statute Circle, Bhagwan Das Road, Jaipur.
3. The Chief Commissioner of Income Tax, Paota C Road, Jodhpur.
4. The Assistant Commissioner of Income Tax (HQ Office of Commissioner Income Tax II, Paota C Road, Jodhpur.

...Respondents

(By Advocate Mr. R.P.Mathur and Mr. Varun Gupta).

14. OA No.112/2012 with MA No.156/2012

1. Hitesh Chandra S/o shri Magan Lal Ji, B/c Meghwal, aged about 33 years, R/o Near Nub Stand, Street No.2, South Meghwal Vas, Sirohi.
2. Lalita Devi W/o Shri Himmat Kumar Ji, B/c Harijan, aged about 38 years, R/o 254, Ward no.4, Sirohi.
3. Narpat Lal Parihar S/o Shri Choga Ram Ji Parihar, B/c Sargara, aged about 31 years, R/o New Kalapura, Indra Colony, Shivganj, Sirohi.
4. Sanjay Kumar Kumhar S/o shri Harish Kumar Ji, B/c Kumahar, aged about 25 years, R/o Near Searjawav Gate, Kumhar Wara, Sirohi.

Applicants No.1 to 4 are at present employed as Casual Labour in the Sirohi Office under control of Respondent No.5 i.e. Income Tax Office, Sirohi.

.....Applicants

(By Advocate Mr. Nitin Trivedi).

Vs.

1. The Union of India, through Secretary to Government of India, Central Board of Direct Taxes, Ministry of Finance, Dept of Revenue, North Block, New Delhi.
2. The Chief Commissioner of Income Tax, Central Revenue Building, Statute Circle, Bhagwan Das Road, Jodhpur.
3. The Chief Commissioner of Income Tax, Paota C Road, Jodhpur.
4. The Income Tax Officer, Office of Income Tax, Sirohi.

...Respondents

(By Advocate Mr. R.P.Mathur and Mr. Varun Gupta).

15. OA No.01/2012

1. Jitander Sharma S/o shri Rameshwar Lal Sharma, aged about 23 years, R/o Vijay Singh Pathik Nagar, Bhilwara at present employed as Casual computer Operator in the office of Income Tax Officer, Ward -2, Bhilwara Range, Bhilwara.
2. Jitendra Singh Rajput S/o Shri Ratan Singh Rajput, aged about 33 years, R/o 11-12, Ganesh mandir Road, Gandhi Nagar, Bhilwara, at present employed as Casual Computer

Operator in the office of Income-tax Officer, Ward-4, Bhilwara Range, Bhilwara.

3. Ratan Lal Sen S/o Shri Gopal Lal Sen, aged about 32 years, R/o 17, Kawa Khera, Bhilwara at present employed as Casual Computer Operator in the office of Deputy Commissioner of Income Tax, Circle, Bhilwara Range, Bhilwara.
4. Vishal Kumar Modi S/o shri Jhamak Lal Modi, aged about 28 years, R/o C-239, RK Colony, Bhilwara at present employed as Casual Computer Operator in the office of Income-Tax Officer, Ward-3, Bhilwara Range, Bhilwara.
5. Rajkumar Mali, S/o Shri Rameshwar Lal Mali, aged about 23 years, R/o Shahapura Road, Sanganer, Bhilwara at present employed as Casual Computer Operator in the office of Income Tax Officer, Ward-1, Bhilwara Range, Bhilwara.
6. Bharat Kumar Modi S/o Shri Mohan Lal Modi, aged about 28 years R/o C-239, RK Colony, Bhilwara at present employed as Casual Computer Operator, in the office of Income-Tax Officer, Ward-4, Bhilwara Range, Bhilwara.
7. Abdul Qadir S/o Shri Abdul Muqeem Quazi, aged about 24 years, R/o in Front of Idgah, Sanganeri Gate, Bhilwara, at present employed as Casual Computer Operator, in the office of Joint Commissioner of Income-Tax, Bhilwara Range, Bhilwara.
8. Pushpkant Sharma S/o Nanu Ram Sharma, aged about 31 years R/o Jityan, The. Kotri, District Bhilwara at present employed as Casual Computer Operator, in the office of Income –Tax Officer, Ward-3, Bhilwara Range, Bhilwara.

.....Applicants

(By Advocate Mr. J.K.Mishra).

Vs.

1. Union of India through Secretary to Government of India, Ministry of Finance, Department of Revenue, North Block, New Delhi.

2. Chief Commissioner of Income Tax (CCA), C.R. Building, Statute Circle, B.D. Road, Jaipur.

3. Commissioner of Income Tax, Opp Session Court, Central Revenue Bhilding, Jaipur Road, Ajmer.

...Respondents

(By Advocate Mr. R.P.Mathur and Mr. Varun Gupta).

16. OA No.123/2012 with MA No.115/2012

Tulsi Ram Jod S/o Shri Khema Ram, aged about 32 years, R/o 352, Subhash Nagar-A, Pali, at present employed as Casual Sweeper/ Safaiwala in the office of Income Tax, Joint CIT, Pali.

.....Applicant

(By Advocate Mr. J.K.Mishra).

Vs.

1. Union of India through Secretary to Government of India, Ministry of Finance, Department of Revenue, North Block, New Delhi.

2. Chief Commissioner of Income Tax (CCA), C.R. Building, Statute Circle, B.D. Road, Jaipur.

3. Commissioner of Income Tax-I, Paota C Road, Jodhpur.

...Respondents

(By Advocate Mr. R.P.Mathur and Mr. Varun Gupta).

17. OA No.124/2012 with MA No.116/2012

1. Santosh Kumar S/o Shri Tara Chand Chandel, aged about 28 years, R/o Gali No.04, Kalal Colony, Nagauri Gate, Jodhpur, last employed on the post of Peon, Income Tax Office, Paota C Road, Jodpur.
2. Gulab S/o Shri Hari Bhajan, aged about 33 years, R/o Ram Mohalla Kaga Colony, Jodhpur, last employed as Casual Computer Operator in the office of Income Tax Ward-3 (3), Jodhpur.
3. Vikram S/o Shri Manohar Lal, aged about 27 years, R/o Qtr. No.C-36/11, Reserve Police Line, Ratanada, Jodhpur last employed as Casual Peon, in the office of Income Tax, CCIT Hqrs., Jodhpur.
4. Smt. Lalita W/o Shri Ashok Kumar, aged about 36 years, R/o Kalu Khan Ki Haveli, Rasala Road, Jodhpur, last employed as Casual Labour in the office of Income Tax Officer (TDS-1) (DDO) , Jodhpur.
5. Chandra Prakash S/o Shri Rameshwar Lal Ramawat, aged about 24 years, R/o Azad Chowk, Ramawat Street, Barmer, last employed as Casual Computer Operator in the office of Income Tax Officer (DDO), Barmer.
6. Bhanwar Lal Chaudhary S/o Shri Gena Ram Chaudhary, aged about 26 years, R/o VIII Ramsaria, Post Baitu Bhopji, District Barmer-344034, last employed as Casual Peon in the office of Income Tax Officer (DDO), Barmer.
7. Ramesh S/o Shri Gopi Lal, aged about 29 years, R/o Gandhi Chowk, Sardar Patel Marg, Jalore, last employed as Casual Computer Operator in the office of Income Tax Officer, Jalore.
8. Dinesh Vaishnav S/o Shri Hari Ram Vaishnav, aged about 22 years, R/o Railway Station, Mokhalsar, District Jalore, last employed as Casual Computer Operator in the office of Income Tax Officer, Jalore.
9. Hari Ram Meena S/o Shri Badri Prasad Meena, aged about 26 years, R/o C/o Rajendra Kumar Mahavar, Prithvipura, Rasala Road, Jodhpur, last employed as Casual Peon in the office of Income Tax, Ward-1 (3), Jodhpur.

10. Kanhaiya Lal S/o shri Basti Ram, aged about 40 years, R/o Gali No.1, Gandhipura, BJS, Jodhpur, last employed as Casual Computer Operator in the office of Income Tax Ward-I (3), Jodhpur.
11. Ashok Kumar Sharma S/o shri Parmanand Sharma, aged about 36 years, R/o Behind Mandore Krishi Mandi, Maderana Colony, Near Shishu Niketan School, Jodhpur at present employed as Casual Computer Operator in the office of Chief Commissioner of Income –Tax, Jodhpur.

.....Applicants

(By Advocate Mr. J.K.Mishra).

Vs.

1. Union of India through Secretary to Government of India, Ministry of Finance, Department of Revenue, North Block, New Delhi.

2. Chief Commissioner of Income Tax (CCA), C.R. Building, Statute Circle, B.D. Road, Jaipur.

3. Commissioner of Income Tax-I, Paota C Road, Jodhpur.

4. Commissioner of Income Tax-II, Paota C Road, Jodhpur.

...Respondents

(By Advocate Mr. R.P.Mathur and Mr. Varun Gupta).

18. OA No.135/2012 with MA No.117/2012

1. Lalit Gehlot S/o Late Shri Mangi Lal, aged about 27 years, R/o VIII and Post Dhamli, via Marwar Junction, Pali, last employed as Casual Waterman/Peon, in the office of Income Tax, Joint CIT, Pali.
2. Sharwan Kumar Bhati S/o Late Shri Binja Ram, aged about 34 years, R/o VIII and PO Barsa via Marwar Junction, District Pali, last employed as Casual Waterman/Peon in the office of Income Tax, Joint CIT, Pali.

.....Applicant

(By Advocate Mr. J.K.Mishra).

Vs.

1. Union of India through Secretary to Government of India, Ministry of Finance, Department of Revenue, North Block, New Delhi.

2. Chief Commissioner of Income Tax (CCA), C.R. Building, Statute Circle, B.D. Road, Jaipur.

3. Commissioner of Income Tax-I, Paota C Road, Jodhpur.

...Respondents

By Advocate Mr. R.P.Mathur and Mr. Varun Gupta).

19. OA No.563/2011

1. Kamlesh Kumawat S/o shri Ashok Ji Kumawat, aged about 33 years, R/o 2 TA 41, Hiran Magri Sec.05, Udaipur, at present employed as Casual Peon in the office of CIT, 16, Mumal Tower, Udaipur.
2. Kishore Kumar Yadav S/o shri Bheru Lal Yadav, aged about 41 years R/o 719, Krishanpura, Near Ganesh Takri, Udaipur, at present employed as Casual Driver in the Office of CIT (A), 16, Mumal Tower, Udaipur.
3. Manisha Sharma S/o shri Pushkar Lal Sharma, aged about 33 years, R/o 258, Ganesh Nagar, Pahada Udaipur, at present employed as Casual Computer Operator in the office of CIT (A), 16, Mumal Tower, Udaipur.
4. Varsha Mehta D/o Shri Satish Chandra Mehta, aged about 29 years, R/o 1338, Adarsh Nagar, Sec-4, Udaipur, at present employed as Casual Computer Operator in the office of ITO Ward-1 (4), 6, New Fatehpura, Udaipur.
5. Yogesh Meena S/o shri Omprakash Meena, aged about 36 years, R/o Swarup Pura Mavli Udaipur, at present employed as Casual Chowkidar in the office of ITO, TRO, 13-B, Saheli Marg, Udaipur.

.....Applicant

(By Advocate Mr. J.K.Mishra).

Vs.

1. Union of India through Secretary to Government of India, Ministry of Finance, Department of Revenue, North Block, New Delhi.

2. Chief Commissioner of Income Tax (CCA), C.R. Building, Statute Circle, B.D. Road, Jaipur.

3. Commissioner of Income Tax, 16, Mumal Tower, Saheli Marg, Udaipur-313001.

...Respondents

(By Advocate Mr. R.P.Mathur and Mr. Varun Gupta).

20. OA No.37/2012

1. Vimal Kumar Swami S/o shri Niranjan Lal Swami, aged 33 years, R/o C/O Shashi STD PCO, Tilak Nagar, Bikaner, at present employed as Casual Data Entry Operator in the office of ITO, Ward-2(2), Bikaner.
2. Kamal Kishore Swami S/o shri Hanuman Das Swami, aged about 26 years, R/o Outside Usta Bari, Near Harsholav Talab, Chhota Ranisar Bass, Bikaner-334001, at present employed as Casual Data Entry Operator in the office of CIT (A), Bikaner.

3. Mahender Kumar Ramawat S/o shri Gopal Das Ramawat, aged 29 years, R/o Behind OBC Bank, Chhimpon Ka Mohalla, GS road, Bikaner-334001, at present employed as Casual Data Entry Operator in the office of ITO, Ward-1 (4), Bikaner.
4. Hari Prakash Suthar S/o shri Kishan Lal Suthar, aged about 31 years, R/o Near BD Kalla House, Daga Mohalla, Bikaner, at present employed as Casual Data Entry Operator in the office of ITO, Ward -1 (2), Bikaner.
5. Ram Swaroop Meena S/o shri Mohan Lal Meena, aged about 36 years, R/o VIII Bamrda, Mukam Devi Ki Dhani, Post Chokdi Via Chala, Tehsil Srimadhopur, Sikar-332738, at present employed as Casual Waterman in the office of JCIT, Range-1, Bikaner.

.....Applicant

(By Advocate Mr. J.K.Mishra).

Vs.

1. Union of India through Secretary to Government of India, Ministry of Finance, Department of Revenue, North Block, New Delhi.

2. Chief Commissioner of Income Tax (CCA), C.R. Building, Statute Circle, B.D. Road, Jaipur.

3. Commissioner of Income Tax, Bikaner, Aayakar Bhawan Rani Nagar, Bikaner (Raj.).

...Respondents

(By Advocate Mr. R.P.Mathur and Mr. Varun Gupta).

21. OA No.52/2012

1. Praveen Sharma S/o Shri Charanjeet, aged about 29 years, R/o ward No.8, Near Shiv Mandir, Kasmiri Mohulla, Jetsar, District Sriganganagar, at present employed as Casual Data Entry Operator in the office of ITO Suratgarh.
2. Sukhvinder Singh S/o shri Gurmej Singh, aged about 29 years, R/o House No.145, Jakhad Colony, Near Agrasen Nagar, Sriganganagar, at present employed as Casual Waterman in the office of ITO Suratgarh.
3. Gaurav Sharma S/o shri Hari Shankar Sharma, aged about 27 years, R/o House No.474, Ward No.9, Bhatta Colony, Hanumangarh-335512, at present employed as Casual Data Entry Operator, in the Income Tax Office Hanumangarh Junction.
4. Manish Sharma S/o Shri Ram Pratap Sharma, aged about 26 years, R/o House No.185, Ward No.11, Bhatta Colony, Hanumangarh-335512, at present employed as Casual Data Entry Operator, in the Income Tax Office, Hanumangarh Junction.

5. Bhanwar Lal Mund S/o Shri Girdhari Lal Mund, aged about 30 years, R/o Ward No.6, Sector No.12-L, purani Kunja, Near Children Park Hanumangarh-335512, at present employed as Casual Waterman/Bagwan, in the Income-Tax Office, Hanumangarh Junction.
6. Vinod Godara S/o shri Sahab Ram, aged about 29 years, R/o Ward No.13, Adarsh Takeej Road, Purani Abadi, Sriganganagar, at present employed as Casual Computer Operator in the office of Income Tax, ACIT Circle, Sriganganagar.
7. Ramesh Soni S/o shri Balram Soni, aged about 23 years, R/o Ashok Nagar-B, New Child School, Sriganganagar, at present employed as Casual Computer in the office of Income Tax, JCIT Range, Sriganganagar.
8. Randhir Kumar S/o shri Lal Chand, aged about 25 years, R/o Village-36 LNP, Tehsil Padampur, Sriganganagar, at present employed as Casual Computer Operator, in the office of Income Tax, ITO Ward No.2, Sriganganagar.
9. Subhash Chander S/o Shri Banwari Lal, aged about 29 years, R/o Ward No.11, Behind sukhwant Cinema, Purani Abadi, Sriganganagar, at present employed as Casual waterman/Peon, in the office of Income Tax, Sriganganagar.
10. Sohan Singh s/o Shri Raj Kumar Saini, aged about 24 years, R/o C/o 55-56, Wared No.2, Bharat Nagar, Purani Abadi, Sriganganagar, at present employed as Casual Waterman/Peon, in the office of Income Tax, Sriganganagar.

.....Applicant

(By Advocate Mr. J.K.Mishra).

Vs.

1. Union of India through Secretary to Government of India, Ministry of Finance, Department of Revenue, North Block, New Delhi.
2. Chief Commissioner of Income Tax (CCA), C.R. Building, Statute Circle, B.D. Road, Jaipur.
3. Commissioner of Income Tax, Bikaner, Aayakar Bhawan Rani Nagar, Bikaner (Raj.).

...Respondents

(By Advocate Mr. R.P.Mathur and Mr. Varun Gupta).

22. OA No.53/2012

1. Shiv Kumar Swami s/o shri Hanuman Das Swami, aged about 32 years, R/o Out Side Usta Bari, Near Harsholav Talab, Chhota Ranisar Bass, Bikaner-334001, at present employed as Casual Data Entry Operator in the office of ITO, Ward-1 (3), Bikaner.
2. Jitendra Jhungh S/o shri Champa Lal Jhungh, aged about 33 years, R/o Opp. Nagar Nigam Bhandar, Kamla Colony,

Bikaner, at present employed as Casual Sweeper in the office of CIT, Bikaner.

3. Nirmal Kumar Kheriwal S/o shri Surja Ram Kheriwal, aged about 37 years, R/o 33, Chankaya Nagar, Old Shiv Bari Road, Bikaner-334003, at present employed as Casual Data Entry Operator in the office of ITO (Tech.), Bikaner.
4. Raj Kumar Barupal S/o shri Dala Ram Barupal, aged 37 years, R/o Ward No.19, Meghwal Mohalla, Shriramsar, Bikaner, at present employed as Casual Waterman in the office of ACIT, Range-I, Bikaner.
5. Krishan Kumar Kansara S/o shri Manohar Lal Kansara, aged about 25 years, R/o Golchha Mohalla, Bikaner, at present employed as Casual Data Entry Operator in the office of JCIT, Range-1, Bikaner.
6. Madhuri Sarswat D/o Sh. Kamal Kishore Saraswat, aged about 22 years, R/o Punchmukha Road, Behind Kali Mata Mandir, Rani Bazar, Bikaner, at present employed as Casual Data Entry Operator in the office of ITO (TDS), Bikaner.
7. Shravan Kumar Shankhla S/o shri Magha Ram Shankhla, aged about 22 years, R/o Ward No.19, Shriramsar, Bikaner, at present employed as Casual Data Entry Operator in the office of ITO, Ward-2 (1), Bikaner.
8. Mahender Singh Parihar S/o Shri Gulab Singh Parihar, aged about 28 years, Shri Karni Sewa Sansthan, FCI Godam Road, Indra Colony, Bikaner, at present employed as Casual Waterman in the office of JCIT, Range-1, Bikaner.
9. Ravindra Kumar S/o Shri Bhanwar Lal, aged about 25 years, R/o 169-B, Sadul Ganj, Bikaner, at present employed as Casual Waterman in the office of CIT, Bikaner.
10. Sharwan Kumar Meghwal S/o shri Gebi Ram Meghwal, aged about 36 years, R/o Ward No.19, Meghwal Mohalla, Shriramsar, Bikaner, at present employed as Casual waterman in the office of ITO (Tech.), Bikaner.
11. Rajesh Kumar Jhungh S/o Shri Champa Lal Jhungh, aged about 26 years, R/o Opp. Nagar Nigam Bhandar, Kamla Colony, Bikaner, at present employed as Casual Sweeper in the office of JCIT, Range-1, Bikaner.

.....Applicant

(By Advocate Mr. J.K.Mishra).

Vs.

1. Union of India through Secretary to Government of India, Ministry of Finance, Department of Revenue, North Block, New Delhi.

2. Chief Commissioner of Income Tax (CCA), C.R. Building, Statute Circle, B.D. Road, Jaipur.

3. Commissioner of Income Tax, Bikaner, Aayakar Bhawan Rani Nagar, Bikaner (Raj.).

...Respondents

(By Advocate Mr. R.P.Mathur and Mr. Varun Gupta).

23. OA No.85/2012

1. Poonam Chand S/o Shri Hari Bhajan, aged about 26 years, R/o C-7, Ram Bagh Kaga Colony, Mahamandir, Jodhpur, last employed as Casual Chowkidar, in the office of Chief Commissioner of Income – Tax, Jodhpur.
2. Daulat S/o Shri Suraj, aged about 26 years, R/o Opp. Mahamandir Railway Station, Ram Bag Shcme, Jodhpur, last employed as Casual Peon in the office of Income Tax Ward-1 (1), Jodhpur.
3. Vikram Singh S/o Shri Bal Kishan Singh, aged about 31 years, R/o B-76, Arvind Nagar, Air Force, Jodhpur, last employed as Casual Peon in the office of Income Tax, CIT-1, Jodhpur.
4. Gautam Samariya S/o Shri Mohan Lal Samariya, aged about 34 years, R/o Gali No.11, Kalal Colony, Jodhpur, last employed as Casual Peon in the office of Income Tax CIT-I, jodhpur.
5. Lalit S/o Shri Gauri Shankar, aged about 24 years, R/o Jaswant Ki Gali, Batasagar, Jodhpur, last employed as Casual Peon in the office of income Tax Officer Ward II (1), CIT 1st, jodhpur.
6. Alok Vyas S/o Shri Jagdish Narayan, aged about 26 years, R/o Sector-7-E, 39 Kudi Bhagtasani H.B. Jodhpur, Last employed as Casual peon in the office of Income Tax, valuation Officer, Jodhpur.
7. Hansraj S/o shri Tulsi Ram, aged about 21 years, R/o Kalal Colony, Jodhpur, last employed as Casual Chowkidar in the office of Income Tax, CCIT, Jodhpur.
8. Amit pandit S/o Shri Hari Das, aged about 28 years, R/o Udai Mandir, Tilak Nagar, Jodhpur, last employed as Casual Peon in the office of Income Tax Officer (Audit), Jodhpur.
9. Dinesh Teji S/o shri Ramesh Teja, aged about 30 years, R/o House No.104, Bombay Motor Choraha Road, Near Bendra Acupuncture, jodhpur, last employed as Casual Peon in the office of Income Tax, CIT (A), Jodhpur.
10. Satveer S/o Shri Bhanwar Lal, aged about 21 years, R/o Plot No.8, Near Central Jail, Keshar Bagh, Ratanada, Jodhpur, Last employed on the post of Casual Chowkidar in Guesh House, CCIT Office, jodhpur.
11. Pradeep Singh S/o shri Sawai Singh, aged about 23 years, R/o Sadar Bazar, Dhan Mandi, Jodhpur, last employed as Casual Labour (Peon) in the office of Ito TDS-I, Jodhpur.

.....Applicant

(By Advocate Mr. J.K.Mishra).

Vs.

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2. Chief Commissioner of Income Tax (CCA), C.R. Building, Statute Circle, B.D. Road, Jaipur.

3. Commissioner of Income Tax-I, Paota C Road, Jodhpur.

...Respondents

(By Advocate Mr. R.P.Mathur and Mr. Varun Gupta).

24. OA No.86/2012

1. Narpat Lal Parihar S/o Shri Chhoga Ram, aged about 31 years, R/o Indra Colony, Kalapura Shivganj, District Sirohi, last employed as Casual Chowkidar in the office of Income Tax Officer, Sirohi.
2. Hitesh Chandra S/o Shri Magan Lal, aged about 33 years, R/o Near New Bus Stand, Gali No.2, Sirohi, last employed as Casual Waterman in the office of Income Tax Officer, Sirohi.
3. Sanjay Kumar Kumhar S/o Shri Harish Kumar, aged about 25 years, R/o Near Sarjawa Gate, Kumaharwada, Sirohi, last employed as Casual Computer Operator in the office of Income Tax Officer, Sirohi.
4. Smt. Lalita W/o Shri Himamt Kumar, aged about 38 years, R/o Near Old Police Line, Jhupdi Road, Sirohi, last employed as Casual Safai Karamchari, in the office of Income Tax officer, Sirohi.
5. Suresh Kumar S/o Shri Ramesh Kumar, aged about 28 years, R/o Gudria Jav, Pilkani Nari, Sumerpur, District Pali, last employed as Casual Computer Operator, in the office of Income Tax Officer, Sumerpur, District Pali.
6. Lal Chand Nath S/o Shri Laxman Nath, aged about 31 years, R/o 44-B, Adarash Nagar, pali, last employed as Casual Computer Operator, in the office of Income Tax, Joint CIT, Pali.
7. Iswar Sharma S/o Sh. Parshram Sharma, aged about 26 years, R/o House No.52, Rajendra Nagar, Near Mahila Police Thana, Pali, last employed as Casual Waterman/Peon, in the office of Income Tax, Joint CIT, pali.
8. Lalit Kumar S/o shri Bhanwar lal, aged about 25 years, R/o village and Post Indra Colony, Raiko ki Dhani, Khinwara, Via Marwar Junction, District Pali, last employed as Casual Computer Operator in the office of Income Tax, Joint CIT, Pali.

.....Applicant

(By Advocate Mr. J.K.Mishra).

Vs.

1. Union of India through Secretary to Government of India, Ministry of Finance, Department of Revenue, North Block, New Delhi.

2. Chief Commissioner of Income Tax (CCA), C.R. Building, Statute Circle, B.D. Road, Jaipur.

3. Commissioner of Income Tax, Paota C Road, Jodhpur.

...Respondents

(By Advocate Mr. R.P.Mathur and Mr. Varun Gupta).

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ORDER

Per : Hon'ble Mr. B.K. Sinha, Administrative Member

These 24 OAs as listed above have been heard together. However, the Learned Counsel appearing for the parties chose to confine their arguments to three of the cases i.e. OA No.17/2012, Mahendra Singh & Ors. v. UOI & Ors. Learned Counsel Dr. P.S. Bhati argued for applicants; Shri Nitin Trivedi argued for Chandra Prakash Rankawat & Ors. Vs. UOI & Ors. in OA No.109/2012; Shri J.K.Mishra appeared and argued for Anil Kumar Solanki vs. UOI & Ors. in OA No.12/2012. Learned Counsel Shri R.P.Mathur and Shri Varun Gupta appeared and argued for the respondents. Accordingly, we have dealt with the facts in the aforementioned three cases with the qualification that they be construed as being representative of the other 21 cases under reference as above. In OA No.17/2012, Mahendra Singh & Ors, all the 8 applicants claimed to be full time employees of the respondent department that being the Income Tax Department. Amongst these, the case of the applicant No.1 has been taken as representative of the case of other 7 applicants. The applicant No.1, Mahendra Singh, was appointed as Casual Labour w.e.f. 15.5.1997 as full time employee at a salary of Rs.32 per day, subsequently upgraded to various rates including Rs.44, Rs.60, Rs.68, Rs.84, Rs.164 and is presently getting Rs.292 per day w.e.f. the year 2008. The other 7

applicants have also been paid at the same rate that being Rs.292/- per day, thereby indicating the fact of continuous engagement. The applicants moved this Tribunal vide OA No.201/2009 for regularization against Group 'D' post for which the respondent department initiated the process. This OA was allowed vide the order dated 23.3.2011 directing that full time employees be given preference in regularization while the part time employees be only given preference once the list of full time employees has been exhausted. Instead of regularizing them and complying with the orders of this Tribunal, the Learned Counsel for the applicants submitted, the services of the applicants were terminated w.e.f. 17.01.2012 vide a verbal order. The Learned Counsel for the applicants argued that it is evident from the escalation given in respect of the daily allowance of the applicants that they were in regular employment for more than 10 years of the respondent department. He further submits that this period from 10 to 15 years of service cannot be simply wiped out by an oral order. It was further argued that regularization is not a mode of appointment and is to be distinguished from the same. The Learned Counsel further submitted that in the wake of the judgment in the case of ***Secretary, State of Karnataka & Ors. vs. Umadevi and Ors.***, reported in 2006 (4) SCC 1, the office of the Chief Commissioner of Income Tax (CCA) U.P. (West) Region had issued a circular/order No.17 dated 30.01.2009 and under the directives of the Office of the Chief Commissioner, a Committee had been constituted for regularization of the services of all persons who had completed 10 years of service vide their order

dated 18.11.2008 and 88 casual workers were found eligible for the same. A casual labour cannot be engaged as a permanent labour. In the year 2008, the respondent department was having a policy that no further persons should be employed on daily wages until then whosoever has employed should be regularized. This is further supported by the DoPT guidelines and regretfully no similar exercise has been undertaken in the western zone similar to the above cited instance. The Learned Counsel for the applicants submitted that they are not here for regularization. The law is not a static but a dynamic process. However, the applicants are not pressing for regularization which ought to have been done on the pattern undertaken as cited above. They were given an option to enroll as a contract employee of the contractor and approaching through him. The applicants have refused the aforementioned directives and the applicants' are here for protection of the continuous service as they serve continuously for last 16 years.

2. Learned Counsel for the applicants, Shri Nitin Trivedi, in OA No.109/2012 argued on the basis of this particular case. Here, the lead applicant Chandra Prakash Rankawat was employed as a Daily Wager on daily wages in different months of year 2002 in Income Tax Department under the control of respondent No.3 and likewise the other applicants have already been employed for period of more than 10 years. The applicants have been doing the miscellaneous work like return feeding, processing, letter typing on computer and also the work of delivery boy. The services of the applicants have always been found satisfactory and they are being

paid salary like other employees on submission of the bill for the month, specifying number of days of work put in. Like in OA No.17/2012, these applicants have already been submitting representations for their regularization and have been working ever since, however, their services stand terminated w.e.f. 16.03.2012, though they have been permitted to discharge the work they were doing earlier through contractors. However, the Learned Counsel for the applicants would like us to know that no contract has been executed or signed. The applicants have also been granted ad hoc bonus in the earlier year and have submitted proof of the same at Annexure-A/5 and Annexure-A/6. The department has already given reply under the Right to Information Act that no daily wager working at Jodhpur has refused to mark attendance and strongly denies the contention of the respondents that the applicant had left the work. Now the respondents issued advertisement of employment on outsource basis through contractor vide Annexure-A/1 dated 16.03.2012. The have sought to challenge the same before this Tribunal. The Learned Counsel for the applicants strongly suggested that the fact that ad hoc bonus has been granted implies that they have already acquired a temporary status. He refer to the case of **Kailash Meena and others vs. UOI and others**, OA No.669/2011 of the Jaipur Bench of this Tribunal dated 01.05.2012, wherein it has been held that Rs.292/- could only be paid to such workers who had attained temporary status. Having attained this temporary status, it is quite incorrect on the part of the respondents to argue that to dispense with their services by oral orders. The Learned Counsel Shri Nitin Trivedli

further submitted that it is quite incorrect to say that the applicants have stopped to come office at their own. The facts are otherwise that the applicants are not being allowed to mark attendance and the choice has been reduced to simple proportion- either they come through the contractors or they do not come at all.

3. Learned Counsel Shri J.K. Mishra, appeared for Anil Kumar Solanki & Ors. in OA No.12/2012; his case is similar to that of the others. He strongly emphasized that the applicants were doing more than 10 hours duty. The Learned Counsel submitted that the applicants could be divided into three categories- (i) those who have a stay order operating in their favour and continue with the status quo; (ii) those which have interim/final order in their favour but have not been allowed to mark attendance; (iii) those who do not have any orders in their favour and whose services have been dispensed with orally in a similar fashion. Shri J.K.Mishra, referred to the scheme of DoPT for giving regular employment to those employees where the nature of work was similar. They were to be paid at the rate of 1/3rd of the payment of those of the regular employee. Shri Mishra, strongly resisted that by changing the nomenclature one does not change the facts. Shri Mishra also referred the judgment of ***State of Haryana and others vs. Piara Singh and others*** reported in MANU/SC/0417/1992 : (1993) II LLJ 937 SC, it would be strictly cruel to dispense with their services after a gap of almost 15 years. Learned Counsel JK Mishra submitted that like his other colleagues who have argued on behalf of the applicants that he also does not seek regularization of the applicants but rather their continuation as the respondents are

determined to replace them through manpower being outsourced through contractors.

4. Learned Counsels Shri R.P.Mathur and Shri Varun Gupta for the respondents vehemently argued that the principal relief sought does not fall within the ambit of Provision 3(q) of the Administrative Tribunals Act as the applicants in question are not regular employees but contractual employees and, hence, are not covered by this definition. Such dispute relating to fulfillment of contract does not fall within ambit of Section 14 of the Act and, thereby, the jurisdiction of the CAT stands ousted. He further submitted that the employment of the applicant was only part time in nature and they were not doing the work of regular employee. This matter has already been covered twice by the decision of the Jaipur Bench of the Central Administrative Tribunal vide the case of ***Kamal Kumar Soni vs. Union of India & Ors***. In OA No.27/2010, dated 18th March, 2010 and again by a decision in ***Kailash Meena vs. UOI & Ors***. in OA No.669/2011, dated 01st May, 2012. In the case of ***Kamal Kumar Soni*** (supra) the Tribunal has been pleased to dismiss the OA filed by the applicants therein without having given any positive directions. The learned counsel for the respondents further submitted that the matter has since been taken by the other developments. Multi Tasking Staff, wherein the same employee is capable of performing a host of duty has come into existence and rules for the same have also been framed. Group 'D' post is abolished in the respondent organization and, therefore, no appointment can be made against those posts. The respondents had cited the case of Kailash Meena (supra),

wherein the applicants have gone to the Hon'ble High Court at its Jaipur Bench which did not issue any order to the contrary. Again the matter was considered in the case of Kamal Kumar Soni (supra) and the Jaipur Bench has clearly held that employment through contractors was valid and legal. By the same order, the earlier order dated 18.03.2010 of the Jaipur Bench of the CAT has been treated as a part of the later order. The Jaipur Bench of the CAT in its order has also referred to the order passed by the Jodhpur Bench of the CAT in ***Jeevan Singh Gehlot & Ors. vs. UOI & Ors.***, in OA No.121/2010 decided by the dated 22.02.2012 and held that the order in OA No.27/2010 (Kamal Kumar Soni) dated 18.03.2010 has been produced before the Jodhpur Bench but latter described with it without having stated the reason for doing so, something against the judicial norms. The Learned Counsel for the respondents further submitted that the matter is under consideration of the Hon'ble High Court including issues like whether the rights of the applicant under Contract Labour (Regulation and Abolition) Act, 1970 have been violated and all other issues as has been raised by the applicants. This tribunal, hence, is precluded from considering such issues. Moreover, the learned counsel for the respondents was at pains to emphasize that the department has been more than generous to the applicants by flouting to employ them through contractors and the applicants have in many parts spurned this offer. They have, thereby, not availed of the generosity of the Department. Learned counsel for the respondents concluded that there was no case for this Tribunal to even entertain such applications much less grant any reliefs.

5. Having gone through the pleadings by their respective counsels, the following facts-in-issue emerge for consideration:

(i) Is this Tribunal precluded from hearing this application on account of similar matter being pending consideration in the Hon'ble High Court of Judicature at its Jaipur Bench?

(ii) What relief, if any, could be granted to the applicants?

Is this Tribunal precluded from hearing this application on account of similar matter being pending consideration in the Hon'ble High Court of Judicature at its Jaipur Bench?

6. In so far as the first issue is concerned, there are two parts in it- (i) is this Tribunal precluded from hearing the case of casual labour as they constitute contract employee and it does not come within the purview of Section 3 (q) of the Central Administrative Tribunals Act, 1985; and (ii) whether in view of consideration pendency of the case before the Hon'ble High Court of Judicature at the Jaipur Bench, this Tribunal bound not to hear the case. It is an admitted fact that the Hon'ble High Court at its Jaipur Bench is seized with similar issues. It is, therefore, equally true that since the issue placed before this Tribunal are already under adjudication of the Hon'ble High Court and the matter is ripe for hearing as the Learned Counsel for the respondents has submitted.

7. In so far as first of the questions is concerned Section 3(q) of the Administrative Tribunals Act, 1985 provides:

> ***"3(q) 'service matters', in relation to a person, means all matters relating to the conditions of his service in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the***

Government of India, or as the case may be, or any Corporation [or Society] owned or controlled by the Government, as respects-

(i) Remuneration (including allowances), pension and other retirement benefits.

(ii) Tenure including confirmation, seniority, promotion, reversion, premature retirement and superannuation;

(iii) Leave of any kind;

(iv) Disciplinary matters; or

(v) Any other matter whatsoever."

8. Here, it is to be noted that the term 'person' has been used to denote the persons seeking redressal of his grievance. The term used is not a Government employee. Had it been so, the framers of the Act would have expressly mentioned this within the definition itself and not used a generic term like person. This obviously implies that the intention of the legislature is to bring within its ambits not only those who are already within service but even those who are either knocking at the gates or are in on the peripheries of the employment. Such person being aspirants and engaged, even it be on casual, daily, ad hoc, contract, work chart etc. still have a relationship with the organization which is fully within the purview of this Act. The claim of the applicants is based on the vested rights accrued to them by virtue of their having rendered the service as Casual Labour and not on the basis of the fact they are under a contractor. Their claim is not related to their joining the private contractor rather it is a challenge against the same. Moreover, any numbers of such judgments are there where cases relating to the aforementioned categories of employees have been considered by the Hon'ble Supreme Court against decisions of the Tribunal without having invoked Section 3 (q) of the AT Act, 1985, to oust the jurisdiction of the Tribunal. This is a matter of regular practice. In absence of anything to the contrary, we hold

that this Tribunal has jurisdiction in respect of the categories of Casual Labour who have come before us.

9. The matter, however, takes a different turn in so far as the afore cited two cases namely Kamal Kumar Soni vs. UOI & Ors. (supra) and Kailash Meena (supra) are concerned. In the case of Kamal Kumar Soni (supra), a similar matter had arisen before the Single Bench of this Tribunal at Jaipur, wherein the Learned Bench has held:

> ***"7. Further, with regard to the contention of the applicants that even though they have worked with the contractor and no payment has been made to them till date, the learned counsel for the respondents has categorically stated that the department has made payment of wages in respect of the applicants to the contractor. It is further stated that only 5 applicants have received such payment and other applicants have not received the payment and in case they present themselves before the contractor, such payment can be made by the contract as money stands already deposited by the department in respect of wages of all the applicants. In view of this categorical statement made by the learned counsel for the respondents, the contention of the applicants that the wages for the work done by them during the operation of the contract period has not been made to them, cannot be accepted. In any case, if no wages is received by any of the applicant, it will be open for the applicants to move appropriate application before this Tribunal which will be considered and appropriate order will be passed.***
>
> ***8. Before passing with the matter, it may be observed that as per the stand taken by the respondents, the contract has become effective w.e.f. 01.02.2012 and no grievance has been made before this Tribunal that any of the applicant has been dis-engaged by the contractor or the contractor is paying less wages than being paid to them immediately before commencement of the contract. Thus, the applicants have not been put to any disadvantageous position as yet except that instead of taking work from the applicants by the department, the same is being taken by the department through contract service. As already noticed above, whether such a contract could have been executed or the department had a valid licence and whether the engagement of contract is mere camouflage or whether provisions of Contract Labour (Regulation and Abolition) Act, 1970 has been violated in engaging the services of the casual labour through the contractor are the matters which are to be agitated before the appropriate forum and no before this Tribunal as held by the Hon'ble High Court of Andhra Pradesh in Writ Petition No.14715 of 2005 decided on 03.06.2008 relevant portion of which has been reproduced in the earlier part of this judgment.***
>
> ***9. With these observations, the OAs are disposed of with no order as to costs. In view of the order passed in the OAs, no order is required to be passed in Misc. Applications, which shall stand disposed of accordingly."***

10. In the case of Kailash Meena (supra), which again came up with the Jaipur Bench, the case of Kamal Kumar Soni (supra) was also considered and the Learned Bench has held:

> ***"35. I have carefully examined the earlier order passed by this Tribunal. This Tribunal has already taken a view in the earlier OA No.27/2010 and other connected matters vide order dated 18th March, 2010 that the Tribunal is not appropriate forum to agitate the issue, which has been raised in these OAs, and the issue involved in these OAs can be agitated before the appropriate forum and not before this Tribunal following the ratio decided by the Hon'ble High Court of Andhra Pradesh in Writ Petition No.14715/2005 decided on 03.06.2008. As per the judicial courtesy and decorum to maintain judicial discipline, I have to follow the judgment rendered by this Tribunal in OA No.27/2010 dated 18.03.2010 wherein similar controversy has been decided.***
>
> ***36. The Hon'ble Supreme Court in a recent judgment in the case of U.P. Power Corporation Ltd. Vs. Rajesh Kumar and Ors. in Civil Appeal No.2608/2011 vide order dated 27th April, 2012 having dealt with the various grounds urged and after analyzing the reasoning of the Allahabad Bench and after referring certain decision and principles pertaining to binding precedent in para 12 observed as under:-***
>
> > ***"We have reproduced the paragraphs from both the decisions in extensor to highlight that the Allahabad Bench was apprised about the number of matters at Lucknow filed earlier in point of time which were being part heard and the hearing was in continuum. It would have been advisable to wait for the verdict at Lucknow Bench or to bring it to the notice of the learned Chief Justice about the similar matters being instituted at both the places. The judicial courtesy and decorum warranted such discipline which was expected from the learned Judges but for the unfathomable reasons, neither of the courses were taken resource to. Similarly, the Division Bench at Lucknow erroneously treated the verdict of Allahabad Bench not to be a binding precedent on the foundation that the principles laid down by the Constitution Bench in M.Nagraj (supra) are not being appositely appreciated and correctly applied by the bench when there was reference to the said decision and number of passages were quoted and appreciated albeit incorrectly, the same could not have been a ground to treat the decision as per incuriam or a binding precedent. Judicial discipline commands in such a situation when there is disagreement to refer the matter to a larger Bench. Instead of doing that, the Division Bench at Lucknow took the burden on themselves to decide the case."***
>
> ***Further, the Hon'ble Supreme Court in para 13 referred the judgment of Lala Shir Bhagwan and Another v. Ram Chand and another, AIR 1976 SC 1767 and observed as under:***
>
> > ***"13. In this context, we may profitably quote a passed from Lala Shri Bhagwan and another v. Ram Chand and another:-***
> >
> > > ***18... It is hardly necessary to emphasize that considerations of judicial propriety and decorum require that if a learned single judge hearing a matter is inclined to take the view that the earlier decisions of the High Court, whether of a division Bench or of a single judge, need to be reconsidered, he should not embark upon the enquiry sting as a single judge, but should refer the matter to a Division Bench or in a proper case, place the relevant papers before the Chief Justice to enable him to constitute a larger Bench to examine the question. That is the proper and traditional way to deal with such matters and it is founded on healthy principles of judicial decorum and propriety. It is to be regretted that the learned single judge departed from this traditional way in the present case and chose to examine the question himself."***

Further, the Hon'ble Supreme Court further in Para 14 referred the case of Sundarjas Kanyalal Bhathija and others vs. the Collector, Thane, Maharashtra and others [AIR 1991 SC 1893] wherein while dealing with judicial discipline, the two-judge Bench has expressed as under:-

> *"One must remember that pursuit of law, however glamorous it is, has its own limitation on the Bench. In a multi-Judge Court, the Judges are bound by precedents and procedure. They could use their discretion only when there is no declared principle to be found, no rule and no authority. The judicial decorum and legal propriety demand that where a learned single Judge or a Division Bench does not agree with the decision of a Bench of co-ordinate jurisdiction, the matter shall be referred to a larger Bench. It is a subversion of judicial process not to follow this procedure."*

After referring the above, the Hon'ble Supreme Court observed that – the aforesaid pronouncements clearly has lay down what is expected from the Judges when they are confronted with the decision of a Co-ordinate Bench on the same issue. Any contrary attitude, however adventurous and glorious may be, would lead to uncertainty and inconsistency. It has precisely so happened in the case at hand. There are two decisions by two Division Benches from the same High Court. We express our concern about the deviation from the judicial decorum and discipline by both the Benches and expect that in future, they shall be appositely guided by the conceptual eventuality of such discipline as laid down by this Court from time to time. We have said so with the fond hope that judicial enthusiasm should not be obliterate the profound responsibility that is expected from the judges.

37. The Hon'ble Supreme Court has expressed their concern about the deviation from the judicial decorum and discipline by both the benches and expected that in future they shall be appositely guided by the conceptual eventuality of such discipline as laid down by the Supreme Court from time to time.

38. Applying the aforesaid ratio in the present case, since the judgment rendered by CAT-Jaipur Bench on 18.03.2010 in OA No.27/2010 and other similar matters was submitted before the CAT-Jodhpur Bench at the time of hearing and the same has been referred and considered by the Jodhpur Bench but not expressed any opinion as to how the Jodhpur Bench is having disagreement with the order passed by the Jaipur Bench. In such eventuality, at the most it should refer the matter to the Chairman, Central Administrative Tribunal, Principal Bench, New Delhi with regard to the disagreement with the judgment rendered by the Jaipur Bench, but without reference of the matter, has taken a different view. Since operation of the order passed by the Jodhpur Bench has been stayed, I do not want to express any opinion on the merit of the case but having followed the ratio decided by the Hon'ble Supreme Court in the case of U.P. Power Corporation (supra), regarding maintenance of judicial decorum and discipline, I have two options available either to agree with the view taken by this Tribunal in OA No.27/2010 or to refer the matter to the Chairman, Central Administrative Tribunal, Principal Bench. In the facts and circumstances of the present case, I am in full agreement with the view expressed by this Bench in OA No.27/2010 vide order dated 18th March, 2010.

39. Further, it is not disputed that the order passed by this Tribunal dated 18th March, 2010 has been assailed before the Division Bench of the Hon'ble High Court at Jaipur Bench and the Jaipur Bench of the High Court has passed interim order but no stayed complete operation of the order dated 18th March, 2010 and admittedly, the said Writ Petition is still pending consideration before the Hon'ble High Court. In such eventuality, the relief claimed by the applicants by way of filing these OAs to quash and set aside the policy of the respondents regarding taken the services through Contractor and to allow the applicants to perform the work which they were performing for so many years cannot be granted, since more or less same relief has also been claimed by the applicants in OA No.27/2010 and other OAs decided by this Tribunal on 18th March, 2010 and the same is pending consideration before the Hon'ble Division Bench of the High Court. In these circumstances, when

the Hon'ble High Court is seized of the matter involving similar question of facts and law, the Tribunal cannot consider the same afresh.

40. I have also perused the judgments referred to by the learned counsel appearing for the applicants as well as the judgments referred by the learned counsel appearing for the respondents. As observed hereinabove, according to me, the view earlier taken by this Tribunal in OA No.27/2010 and other similar cases is just and proper and therefore, the present OAs are required to be disposed of according to the observations made by this Tribunal vide order dated 18th March, 2010 and there is no need to consider the matter afresh. I am not satisfied with the submissions made on behalf of the applicants to consider the matter afresh on the same issue. The applicant can take all sort of submissions legal as well factual which are taken here in these OAs before the Hon'ble Division Bench of the High Court as the Writ Petition filed against the order dated 18.03.2010 passed by this Tribunal in OA No.27/2010 and other similar matters is pending consideration.

41. Thus, all the OAs are disposed of in the terms of order dated 18.03.2010 passed by this Tribunal in OA No.27/2010 and other similar matters. The order dated 18.03.2010 shall be treated as part of this order."

11. This Tribunal is also faced with a choice identical to that of the Jaipur Bench of the CAT as has been disclosed in para 38 of the case of Kailash Meena (supra). The solution to the dilemma has also been provided in the paragraph 39 of the same judgment on the basis of the ***Sundarjas Kanyalal Bhathija and others vs. the Collector, Thane*** (supra) that no matter how attractive the proposition to adjudicate ab initio on the issues involved the Bench has to be guided by the collected wisdom of the earlier judgments. This matter is not res integra in view of the judgments referred to by the Jaipur bench of CAT and a plethora of them from the other Hon'ble Apex Court and other Hon'ble Courts. For this matter, we feel that it is not necessary at this stage to draw to find distinctions as between the matter of jurisdiction ab initio and the matter of propriety as the matter is under adjudication of a higher Court without one impinging on the other. We are, therefore, firmly of the opinion that this Tribunal would like to be led by the precedent laid down in the case of Kailash Meena (supra) and take upon itself the task of deciding issues with which the Hon'ble Jaipur Bench of

the Hon'ble High Court is seized irrespective of the fact that they involve issues in rem or in personam. Hence, no opinion can be expressed on this issue as well as the other issue agitating by the Learned Counsel for the applicants.

What relief, if any, could be granted to the applicants?

12. Having decided the first issue as it has been discussed, the second issue is that should this Tribunal provide some relief to the applicants. The natural inclination would be to say no as once the main issue cannot be considered by this Tribunal relief would appear out of question. This issue has been considered in the light of the relief sought. Here, it is to be recalled that the first two reliefs sought do not include regularization but a direction to allow the applicants to continue in service as they have been continued. It is to be recalled that the applicants are categorized into three groups as mentioned in para 3 of this order. It has been well proved from the evidence adduced by the applicants that they have continued in the employment of the respondent organization either on temporary basis or on casual basis for the periods varying up to 14 years. They are on a superior pedestal as compared to a person on the streets. The plea of the respondents that all such categories of employees have abandoned their job is not to be believed in this high noon of unemployment. What worries us is that this decision should not become an instrument of wiping out the labour of such employees for the past periods up to 14 years in certain cases. It is simply that this Tribunal precluded from considering the issue in light of the decisions of the Jaipur Bench

and the fact that the matter is under consideration of the Hon'ble High Court. Therefore, the following directives are given:

(i) Such employees who continued to be on the rolls of the respondent organization should be allowed to mark their attendance and they may continue discharging their duties till a decision on the subject by the Hon'ble High Court.

(ii) Those employees who willingly wish to join to avail of the employment through the contractors/service providers may be given the first preference in doing so.

(iii) This, however, should not become a pretext for disengaging all the daily wages/ casual employees and no coercion should be exercised in this matter by the respondents.

(iv) There shall be no order as to costs.

13. To the above extent, these OAs are allowed.

— Sd —

[BK Sinha]
Administrative Member

— Sd —

[G. George Paracken]
Judicial Member

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COMPARED & CHECKED

CERTIFIED TRUE COPY
Dated 19.11.2012

Section Officer (Judl.)
Central Administrative Tribunal
Bangalore Bench, Bangalore