

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH AT JODHPUR**

Original Application No.55/2013

Jodhpur, this the 19th March, 2013

CORAM

HON'BLE MR. JUSTICE KAILASH CHANDRA JOSHI, MEMBER (J)

1. Gauri Shankar S/o Shri Kishan Lal Maru, aged about 41 years, R/o Ward No.18, Naiyon-ka-Mohulla, Napasar, Bikaner, at present employed as Casual Chowkidar, in the office of Assistant Commissioner of Income Tax (Central), Bikaner.
2. Mohd. Umar S/o Shri Anwar Ali, aged about 40 years, R/o Telyeon-ka-Mohulla, Near School No.9, Fad Bazar, Bikaner, at present employed as Casual Waterman, in the office of Assistant Commissioner of Income Tax (Central), Bikaner.

.....Applicants

Mr.J.K.Mishra, counsel for applicants.

Vs.

1. Union of India through Secretary to Ministry of Finance, Govt. of India, Central Board of Direct Taxes, North Block, New Delhi.
2. Commissioner of Income Tax (Central), 2nd Floor, New C.R. Building (Annexe), Statute Circle, B.D.Road, Jaipur.
3. Assistant Commissioner of Income Tax (Central), Aaykar Bhawan, Rani Bazar, Bikaner.

...Respondents

Mr. Varun Gupta, counsel for respondents.

ORDER (ORAL)

The short facts necessary to decide this application are that the applicants were initially engaged as daily wages casual workers on various dates and offices in the Department of respondents. By

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way of order dated 09.07.20007, the applicants are being paid Rs.164/- per day and by way of order dated 12/17.11.2008 wages has been increased as Rs.222/- per day w.e.f. 01.07.2008 and further Rs.292/- per day w.e.f. 01.07.2008. A decision has been take by the respondents to replace the casual labours by outsourcing to be provided though contractors. Under the above apprehension, some of the similarly situated persons had filed original applications against the outsourcing and termination of their services and the same came to be disposed of with a direction that those who are continuing and also in whose favour stay have been granted, would be continued as casual labours till finalization of writ petition pending before the Rajasthan High Court Jaipur Bench.

2. As present applicants have also the apprehension to be discontinued from the engagement, therefore, they filed this Original Application with a prayer to allow them to work as Casual Labour.

3. The notices were issued to the respondents and Shri Varun Gupta, Advocate, appeared on behalf of the respondents. Without filing the reply, Shri Varun Gupta, counsel for the respondents contended that similar cases have been decided by this Tribunal on 29.10.2012 vide OA No.17/2012 *Mahendra Singh and Ors. vs. UOI & Ors*, and in the above OA the following directions were issued:-

"(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 g9iven the first preference in doing so.

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(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. "

4. Therefore, counsel for the respondents contended that this OA may also be disposed of in the light of the earlier judgments delivered by this Tribunal.

5. Counsel for the applicant contended that the case of the applicants comes in the category of first employee, who are working continuously and are continued to be on rolls to the respondent organization, therefore, they should be allowed to mark their attendance and continuing discharge their duties till a decision on the subject matter by the Hon'ble High Court.

6. Both the counsels admit that a writ petition is pending before the Division Bench of the Hon'ble Rajasthan High Court at Jaipur Bench against an interim order passed by the Central Administrative Tribunal, Jaipur Bench in the similar subject matter.

7. Accordingly, this OA is also disposed of in the light of the order passed by this Tribunal in OA No.17/2012 and other OAs, with a direction that applicants shall be allowed to continue discharging their duties till a decision is taken on the subject matter by the Division Bench of the Hon'ble Rajasthan High Court at Jaipur Bench. No order as to costs.


[Justice K.C. Joshi]
Judicial Member