

1/9

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH AT JODHPUR

Original Application No.148/2013

Jodhpur, this the 25th day of September, 2013

CORAM

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

1. Sobha Ram s/o Sh. Dhan Raj, aged about 38 years r/o Dhadha Bas, Mahamandir, Jodhpur at present employed as Casual Peon in the CIT, O/o Income Tax Appellate Tribunal, 69, Polo 1st Paota, Jodhpur
2. Khiya Ram s/o Shri Multana Ram, aged about 33 yeas, r/o Vill and PO, Koshana, Tehsil Bhopalgarh, Jodhpur, at present employed as Casual Peon in the CIT, O/o Income Tax Appellate Tribunal, 69, Polo 1st Paota, Jodhpur
3. Ravi Prakash s/o Shri Pooram Prakash, aged about 23 years, r/o House No.24, Keshar Bag, Harijan Basti, Behind Central Jail, Ratnada, Jodhpur, at present employed as Casual Safaiwala, in the office of Income Tax, under CCIT, Jodhpur
4. Kamal Pal s/o Shri Babu Lal Kachchwaha, aged about 35 years, r/o Hotel Bachan Niwas, Purana Rasoda, Rai Ka Bag, Jodhpur, at present employed as Casual Cook, in the office of Income Tax, under CCIT, Jodhpur.
5. Rameshwar Lal s/o Shri Mohan Lal Mali, aged about 41 years r/o Village-Mathania, Tehsil-Osian, Jodhpur, at present employed as Chowkidar under CCIT, Paota C Road, Jodhpur.

.....Applicants

Mr. A.K.Kaushik, counsel for applicant

Vs.

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

1/10

4. Commissioner of Income Tax O/o Income Tax Appellate Tribunal,
69, Polo 1st, Paota, Jodhpur.

...Respondents

Mr. Bharat Parhiar, proxy counsel for Mr. Varun Gupta, counsel for respondents

ORDER (ORAL)

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

By way of this OA, the applicants pray for the following reliefs:-

- (i) That the applicants may be permitted to pursue this joint application on behalf of five applicants under rule 4(5) of CAT Procedure Rules, 1987.
- (ii) That impugned order dt. 31.5.2011 (Annexure-A1), issued by 2nd respondents may be declared illegal and the same may be quashed. The respondents may be directed to make payment to the applicant @ 1/30th of the pay at the minimum of the time scale of pay of the Group-D staff plus dearness allowances i.e. Rs. 292 per day as basic pay w.e.f. 1.7.2008 and applicants allowed with all consequential benefits including the due arrears thereof as per the order dated 14.8.2012, passed in OA No.531/2011 Abdul Kadir vs. Union of India and ors etc. etc. supra.
- (iii) That any other direction or order may be passed in favour of the applicants, which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.
- (iv) That the costs of this application may be awarded.

2. So far as relief No. (i) is concerned, since the cause of action has arisen from same/identical orders, therefore, the applicants are allowed to pursue this application jointly.

3. Facts in brief, as averred by the applicants, are that the applicants were initially engaged as daily wage casual workers like Casual Peon, Casual Cook, Casual Safaiwala, Casual Chowkidar on different dates. They are primarily doing the ancillary office job as per orders of the official Incharge on full time duty of eight hours a day. There is no difference

2

between the nature of work entrusted to them and that being performed by the regular employees. As per the DOPT OM dated 7.8.1988, where the nature of work entrusted to the casual workers and regular employees is same, the casual workers may be paid at the rate of 1/30th of the pay of the minimum relevant pay scale plus dearness allowance for work of eight hours a day and where the work done by the casual worker is different from the work done by a regular employee, the casual worker may be paid only the minimum wages notified by the Ministry of Labour or the State Government/Union Territory, whichever is higher, as per the Minimum Wages Act, 1948. Where a Department is already paying daily wages at a higher rate, the practice is to be continued with the approval of its Financial Advisor. The casual workers may be given one paid weekly off after six days of continuous work. It is stated that as per OM dated 7.6.1988, the applicants and similarly situated persons were paid at the rate of 1/30th of the pay at the minimum of the time scale of pay of a Group-D staff plus dearness allowance and their wages were further enhanced by the respondents vide order dated 12.11.2008 and 18.10.2008 but the respondents have withdrawn the aforesaid orders vide order dated 31.5.2011 (Ann.A/1).

The applicants have further averred that some of the similarly situated persons filed OA No. 531/2011, Abdul Kadir and Ors. vs. UOI and other similar OAs, and this Tribunal vide order dated 14.8.2012 quashed the order dated 31.5.2011 with direction to continue making payment to the applicants therein @ 1/30th of the pay at the minimum of the time scale of Group-D staff plus dearness allowance i.e. Rs. 292/- per day as basic pay w.e.f. 1.7.2008 with all consequential benefits.

1/12

3. The respondents by way of filing reply have though denied the right of the applicants but submitted that order dated 14.8.2012 passed by this Tribunal has been implemented by the respondent department in letter and spirit taking the right cognizance of the order passed by this Tribunal.

4. We have heard counsel for both parties. The main prayer of the applicants in the present OA is that similarly situated persons who have filed OA No.531/2011 and other similar OAs have been granted benefit and the applicants being similarly situated are also entitled for the same. The respondents by way filing reply have stated that the common order dated 14.8.2012 passed in OA No.531/2011 and other similar OAs has been implemented. In these circumstances, we are of the view that the present OA can also be disposed of with similar direction as has been given by this Tribunal in the cases of similarly situated persons vide order dated 14.8.2012. Accordingly, the present OA is disposed of with the following directions:-

The impugned order dated 31.5.2011 (Ann.A/1) is hereby quashed and the respondents are directed to continue making payment to the applicants @ 1/30th of the pay at the minimum of the time scale of the Group-D staff plus dearness allowance i.e. Rs. 292 per day as basic pay w.e.f.1.7.2008 with all consequential benefits.

5. The OA stands disposed of in the above terms with no order as to costs.


(MEENAKSHI HOOJA)
Administrative Member


(JUSTICE K.C. JOSHI)
Judicial Member

R/