

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 203 of 2007

Monday, this the 30th day of July, 2007

C O R A M :

HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

1. Suresh K.K.,
S/o. Sreedharan,
Part Time Casual Labourer,
Central Excise Hqrs. Office, Cochin,
Residing at Komorethu House,
Kumbalam P.O. : 682 506
2. Radhamani T.R ,
D/o. T.C. Raghavan,
Part time Casual Labourer,
Central Excise Hqrs. Office, Cochin,
Residing at Trikayil Parambu,
Nettoor P.O., Maradu.
3. Sajeev R,
S/o. Rajappan,
Part time Casual Labourer,
Central Excise Hqrs Office, Cochin,
Residing at Plot No. 2, Kudumbi Colony,
Cochin - 20
4. Prasanth P.R.,
S/o. P.N. Raman Nair,
Part Time Casual Labourer,
Central Excise Ernakulam-II Division,
Residing at Perkanjirakkattu House,
Perumpilly P.O., Mulanthuruthy
5. Beevi Kunju K.H.,
D/o. Hamsa,
Part Time Casual Labourer,
Central Excise Hqrs Office, Kochi,
Residing at Kanavath House,
Nettoor, Maradu.
6. Anwar S., S/o. Sainudabdeen,
Part Time Casual Labourer,
Central Excise Hqrs Office, Cochin,
Residing at Kaippal Parambu, Kaloor.

7. **Santhosh M.G.,**
S/o. Gopinatha Shenoy,
Part Time Casual Labourer,
Central Excise Hqrs Office, Cochin,
Residing at Thekkedath House,
Nettoor, Maradu.
8. **Geetha N.M., D/o. Madhavan,**
Part Time Casual Labourer,
Central Excise Hqrs Office, Cochin,
Residing at Naduthirivil House,
Panangad, Cochin.
9. **Latha K.K., W/o. Thambi,**
Part Time Casual Labourer,
Central Excise Hqrs Office, Cochin,
Residing at Karathara House,
Poonithura P.O.
10. **Thadevous K.V.,**
S/o. K.V. Varghese,
Part Time Casual Labourer,
Central Excise Hqrs Office, Cochin,
Residing at Kariveli House,
Caduthaka, Cochin : 23
11. **Pavithran A.K., S/o. Kannanghi,**
Part Time Casual Labourer,
Central Excise Hqrs Office, Cochin,
Residing at Attupurath House,
Maradu Post, Cochin.
12. **Selvaraj B.M., S/o. Mariyan,**
Part Time Casual Labourer,
Central Excise Hqrs Office, Cochin,
Residing at Vedepparambu,
Vennala P.O., Cochin.
13. **Baiju K.P, S/o. M.N. Peethambaran,**
Part Time Casual Labourer,
Central Excise Hqrs Office, Cochin,
Residing at Mattiliparambil House,
Tripunithura : 682 306

(By Advocate Mr. V.B. Hari Narayan)

versus

1. Union of India represented by its
Secretary, Ministry of Finance,
Department of Revenue, North Block,
New Delhi

2. Commissioner of Central Excise,
 Office of the Commissioner of Central Excise,
 Customs Central Revenue Building,
 I.S. Press Road, Cochin. ... Respondents.

(By Advocate Mr. P.A. Aziz, ACGSC)

O R D E R
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

The question is short and straight and hence a crisp but not cryptic order would suffice. The applicants (13 in number) have been serving as a part time casual labourers under the 2nd respondents since July, 1996 and the Ministry of Personnel, by Annexure A-2 order dated 11th December, 2006 advised all the Ministries to frame a one time scheme for regularization of casual labourers in the wake of a direction to the Central/State Governments given by the Apex Court in the case of *State of Karnataka vs Umadevi* (2006 (4) SCC 1). Respondents herein have rejected the request of the applicant for regularization of his case on the ground that his terms of appointment do not provide for any such regularization. The order reads as under:-

" Please refer to your common representation dated 26.02.2007 on the above subject.

2. Vide order No. 148/96 dated 4.7.96, you were appointed temporarily as part-time casual labourers on daily wages. The appointments was purely on ad hoc basis as part-time casual labourers. You were also informed that the order of appointment does not confer any right for appointment in the Government on a permanent basis in any capacity. An undertaking in this regard in the language known was also insisted from you.

3. In view of the foregoing, your request for permanent absorption in the Department cannot be acceded to."

2. Respondents have resisted the OA. According to them, the subject

matter of the case was dealt with the by Hon'ble High Court in CWP No. 14715/2005 and connected writs decided on 3-8-2006 which had held that it is not for the Courts to give instructions in this regard.

3. The question is whether the any of the applicants' rights get infringed by the act of the respondents when they had refused to consider regularization.

4. The Hon'ble High Court's order is dated 3rd August, 2006, while direction by the Nodal Ministry has been issued in December, 2006. That decision is based on the decision of the Apex Court in the case of Umadevi (supra). The grievance of the applicants is that the case of regularization of casual labourers on the basis of the Supreme Court's judgment in Umadevi and on the basis of the DOPT orders should take place for the entire category and not to be tested on the basis of the terms and conditions given in the initial engagement order. Invariably, all the orders for engagement would be consisting more or less the same terms and conditions and existence of such terms and conditions cannot in any way mean that when the Apex Court has directed the Central/State Governments to formulate a scheme, and when the same was advised by the DOPT for implementation, the benefit of such scheme that may be formulated should not be extended to such casual labourers.

5. The OA is, therefore, allowed to the extent that the respondents shall consider framing of a scheme on the lines advised by the Ministry of Personnel vide their order at Annexure A-2 and if the applicants fulfill the conditions that may be stipulated therein, the case of the applicants be duly considered. Since the entire drill involves ~~first~~ formulation of a scheme, no time limit is prescribed.

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It is hoped that the matter would be dealt with at the appropriate level within a reasonable span of time.

6. No costs.

(Dated, the 30th July, 2007)



Dr. K B S RAJAN
JUDICIAL MEMBER

CVR.