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CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

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**ORDERS OF THE BENCH**

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**Date of Order: 19.04.2012**

OA No. 564/2009

Mr. P.N. Jatti, counsel for applicant.

Mr. Gaurav Jain, counsel for respondents.

Heard learned counsel for the parties. O.A. is disposed of by a separate order on the separate sheets for the reasons recorded therein.

  
(JUSTICE K.S. RATHORE)  
MEMBER (J)

Kumawat

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH

Jaipur, this the 19<sup>th</sup> day of April, 2012

OA No. 564/2009

CORAM:

HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)

Hari Prasad Sharma  
s/o Shri Moti Lal Sharma  
r/o 413, 10-B, Gopalpura bypass,  
Triveni Nagar, presently not engaged  
in the office of the Chief Commissioner,  
Income Tax, Assistant Commissioner,  
Income Tax, NCR Building,  
Jaipur.

... Applicant

(By Advocate: Shri P.N.Jatti)

Versus

1. Union of India  
Through the Secretary to the Govt. of India,  
Ministry of Finance,  
Department of Revenue,  
New Delhi.
2. Chief Commissioner Income Tax,  
Central Revenue Building,  
Bhagwandas Road,  
Statue Circle, Jaipur
3. Commissioner of Income Tax (Headquarter),  
Revenue Building  
O/o Chief Commissioner Income Tax,  
Revenue Building,  
Statue Circle, Jaipur

... Respondents

(By Advocate : Shri Gaurav Jain )

ORDER (ORAL)

This is third round of litigation. Earlier the applicant preferred OA No.329/2005 which was disposed of by this Tribunal vide order dated 23.3.2006 observing as under:-

"7. The learned counsel for the applicant further argued that the applicant is working with the respondents for number of years, as such, he is entitled to be appointed against Group-D post by giving him relaxation in age and taking into consideration the experience gained by him in the department. It is further argued that till the applicant is not appointed against any Group-D post, he may be allowed to continue to work in the present capacity as work is available in the department. There appears to be considerable force in the submissions made by the learned counsel for the applicant. As can be seen from the material placed on record and, more particularly, the stand taken by the respondents in para 5.6 of the reply, where it has been stated that there is shortage of staff in the department and to tide over this situation, persons on daily wage basis are being engaged, it is clear that work is available with the Department. Thus, keeping in view the facts and circumstances of this case and the fact that the applicant is working with the department for the last so many years, which fact also pre-supposes existence of work with the department, I am of the view that ends of justice will be met, if direction is given to continue to engage the applicant, if the work of the nature which the applicant performed is still available with the respondents and also that



the case of the applicant for appointment against Group-D category(ies) shall be considered along with other persons by giving relaxation in age for the period of service rendered by him in the capacity as casual labour. Accordingly, the respondents are directed to give the benefit of age relaxation to the applicant to the extent of service rendered by him in the capacity as Casual Labour. In other words, the service rendered by the applicant as Casual Labour will be deducted from his maximum age for the purpose of determining eligibility for Group-D post and further the respondents shall continue to engage the applicant if there is sufficient work and other Casual Workers are still to be employed by the respondents for carrying out the work.”

3. Thereafter, it appears that the applicant filed OA No.342/2008 before this Tribunal, which was dismissed as withdrawn vide order dated 20.11.2008. While withdrawing OA No.342/2008, the applicant shown his intention to file Execution application/Contempt Petition for compliance of the order dated 23.3.2006 passed in OA No.329/2005.

4. Now by way of this present OA, the applicant claims relief for direction to the respondent to engage the applicant as daily wager Group-D in the office of Chief Commissioner Income Tax, Jaipur and to continue the services of the applicant as per direction of this Tribunal dated 23.3.2006 in OA No.329/05.



5. The learned counsel appearing for the applicant contended that the respondents are still engaging daily wager Group-D employees, therefore, the applicant be also allowed to continue as daily wager and to this effect vide Ann.A/1 dated 10.7.2008 the applicant made request to the Chief Commissioner Income Tax to allow him to continue as daily wager.

6. Per contra, the respondents have referred the case of Secretary, State of Karnataka and others vs. Uma Devi (3) and others, reported in (2006) 4 SCC 1 wherein the Hon'ble Supreme Court with regard to the public employment held that absorption or regularization or permanent continuance of temporary, contractual, casual, daily-wage or ad-hoc employees appointed/recruited and continued for long in public employment dehors the constitutional scheme of public employment. It is also contended that after the judgment rendered by the Hon'ble Supreme Court in the case of Uma Devi (supra), the Govt. of India, Ministry of Finance, Department of Revenue issued order dated 4<sup>th</sup> July, 2011 whereby it is decided not to engage daily wage employees directly but through contractors. The learned counsel appearing for the respondents have also placed reliance on the order dated 18<sup>th</sup> March, 2010 passed by this Tribunal in various similar OAs alongwith OA No.72/2010 wherein this Tribunal while disposing of these OAs observed that as per the stand taken by the respondents, the contract has become effective w.e.f. 1.2.2010 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. Upon asking, the applicant is ready to work through contractor.

7. Having considered the rival submissions of the respective parties, I am of the view that ends of justice will be met if I direct the respondents to allow the applicant to work through contractor, if the work of the nature done by the applicant still exists.

8. With these observations, the OA stands disposed of with no order as to costs.

  
(JUSTICE K.S.RATHORE)

Judl. Member

R/