CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

Date of Order: 12.03.2013

OA No. 106/2012

Order dictated in open court.

See separate detailed common order on the separate sheets.

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

Kumawat

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH,

Tuesday, this the 12th day of March, 2013

OA Nos. 81/2012, 82/2012, 83/2012, 84/2012, 85/2012, 86/2012, 87/2012, 88/2012, 89/2012, 90/2012, 91/2012, 106/2012, 107/2012, 108/2012, 109/2012, 110/2012, 111/2012, 112/2012, 113/2012, 114/2012, 115/2012, 116/2012 and 398/2011

CORAM:

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

OA No.81/2012

Vinod Kumar Tailor s/o Shri Nathu Lal Tailor, aged about 30 years, r/o 47 B, Pratap Nagar Colony, Near Gordhan Ji Ka Well, Murlipura, Sikar Road, Jaipur, presently working as Peon-Casual Labour Group 'D' in the O/o the Commissioner of Income Tax, Computer Operation, Statue Circle, Jaipur

.. Applicant

(By Advocate: Shri P.N.Jatti)

Versus

1. Union of India through the Secretary to the Government of India, Ministry of Finance, Department of Revenue, New Delhi.
2. Chief Commissioner of Income Tax, NCR Building, Statue Circle, Jaipur.
3. Commissioner of Income Tax (CO), N.C.R. Building, Statue Circle, Jaipur.

.. Respondents

(By Advocate: Shri R.B.Mathur)

OA No.82//2012

Ravi Sonava s/o Shree Babu Lal Sonava, aged about 37 years r/o 4220, Govind rao Ji Ka Rasta, Purani Basti, Jaipur, presently working as Group 'D' PBX Operator-Casual Labour Group 'D' in the O/o the Chief Commissioner of Income Tax, NCR Building, Statue Circle, Jaipur

.. Applicant

(By Advocate: Shri P.N.Jatti)

Versus

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

2. Chief Commissioner of Income Tax, N.C.R. Building, Statue Circle, Jaipur.

.. Respondents

(By Advocate: Shri R.B.Mathur)

OA No.83/2012

Lala Ram Mali s/o Chaju Ram Mali, aged about 29 years r/o Keshav Vidhya Peeth, Malion Ki Dhani, Sumel, Jaipur, presently working as Mali-Casual Labour Group 'D' in the O/o the Chief Commissioner of Income Tax, NCR Building, Statue Circle, Jaipur

.. Applicant

(By Advocate: Shri P.N.Jatti)

Versus

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

2. Chief Commissioner of Income Tax, N.C.R. Building, Statue Circle, Jaipur.

.. Respondents

(By Advocate: Shri R.B.Mathur)

OA No.84/2012

Leelam Chand s/o Tulsa Ram, aged about 24 years, H.No.95, Yashoda Path, Shyarn Nagar, Jaipur, presently working as Casual Labour Group 'D' in the o/o the Commissioner of Income Tax, New Central Revenue Building, Statue circle, Jaipur

.. Applicant

(By Advocate: Shri P.N.Jatti)

Versus

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

2. Chief Commissioner of Income Tax, N.C.R. Building, Statue Circle, Jaipur.

.. Respondents

(By Advocate: Shri R.B.Mathur)

OA No.85/2012

Jitendra Singh s/o Rewat Singh, aged about 37 years r/o E-46, Majdoor Nagar, Ajmer Road, Jaipur, presently working as Casual Labour (Computer Operator) Group 'D' in the O/o the Chief Commissioner of Income Tax-I, NCR Building, Statue Circle, Jaipur

.. Applicant

(By Advocate: Shri P.N.Jatti)

Versus

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

2. Chief Commissioner of Income Tax, N.C.R. Building, Statue Circle, Jaipur.

3. Commissioner Income Tax (II), NCR Building, Statue Circle, Jaipur

.. Respondents

(By Advocate: Shri R.B.Mathur)

OA No.86/2012

Raj Kumar Sen s/o Shri Prabhu Narain Sen, aged about 30 years r/o P.No.240, J.P. Colony, Naya Kheda, Vidhya Dhar Nagar, Jaipur, presently working as Casual Labour Gorup-D in the office of the Chief Commissioner of Income Tax, NCR Building, Statue Circle, Jaipur.

.. Applicant

(By Advocate: Shri P.N.Jatti)

Versus

1. Union of India through the Secretary to the Government of India, Ministry of Finance, Department of Revenue, New Delhi.
2. Chief Commissioner of Income Tax, N.C.R. Building, Statue Circle, Jaipur.

.. Respondents

(By Advocate: Shri R.B.Mathur)

OA No.87/2012

Anil Sharma s/o Shri Shyam Sunder Sharma, aged about 25 years, village and post Jahota, Tehsil Amer, Jaipur, presently working as Casual Labour Gorup-D, in the O/o the Chief Commissioner of Income Tax, NCR Building, Statue Circle, Jaipur

.. Applicant

(By Advocate: Shri P.N.Jatti)

Versus

1. Union of India through the Secretary to the Government of India, Ministry of Finance, Department of Revenue, New Delhi.
2. Chief Commissioner of Income Tax, N.C.R. Building, Statue Circle, Jaipur.
3. Commissioner Income Tax (CO), NCR Building Statue Circle, Jaipur

.. Respondents

(By Advocate: Shri R.B.Mathur)

OA No.88/2012

Sunil Kumar Yadav s/o Shri Banwari Lal Yadav, aged about 34 years r/o 32/256, Near Roshan Cycle, Kumher Gate, Bharatpur, presently working as Casual Labour Group-D in the office of Income Tax, Bharatpur

.. Applicant

(By Advocate: Shri P.N.Jatti)

Versus

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

2. Chief Commissioner of Income Tax, N.C.R. Building, Statue Circle, Jaipur.

3. Income Tax Office, Moti Doongri, Alwar

.. Respondents

(By Advocate: Shri R.B.Mathur)

OA No.89/2012

Kailash Chand Jat s/o Jagdish Narain Jat, aged about 33 years r/o Momarka, Tehsil Chaksu, Distt. Jaipur, presently working as Casual Labour Group-D, in the O/o the Chief Commissioner of Income Tax, NCR Building, Statue Circle, Jaipur

.. Applicant

(By Advocate: Shri P.N.Jatti)

Versus

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

2. Chief Commissioner of Income Tax, N.C.R. Building, Statue Circle, Jaipur. ,

3. Commissioner Income Tax (II), NCR Building, Statue Circle, Jaipur

.. Respondents

(By Advocate: Shri R.B.Mathur)

OA No.90/2012

Sarwan Kumar s/o Madan Lal, aged about 34 years r/o Hari Marg, Raigar Basti, Malviya Nagar, Jaipur, presently working as Casual Labour Group 'D' in the O/o the Chief Commissioner of Income Tax, NCR Building, Statue Circle, Jaipur

.. Applicant

(By Advocate: Shri P.N.Jatti)

Versus

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

2. Chief Commissioner of Income Tax, N.C.R. Building, Statue Circle, Jaipur.

3. Commissioner Income Tax (II), NCR Building, Statue Circle, Jaipur

.. Respondents

(By Advocate: Shri R.B.Mathur)

OA No.91/2012

Umesh Chandra Pal s/o Shri Banwari Lal Pal r/o H.No.150, Rai Colony, Hasan Pura-C, presently working as Casual Labour Group 'D' in the O/o the Chief Commissioner of Income Tax, NCR Building, Statue Circle, Jaipur

.. Applicant

(By Advocate: Shri P.N.Jatti)

Versus

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

2. Chief Commissioner of Income Tax, N.C.R. Building, Statue Circle, Jaipur.

3. Commissioner Income Tax (II), NCR Building, Statue Circle, Jaipur

.. Respondents

(By Advocate: Shri R.B.Mathur)

OA No.106/2012

Dinesh Kumar Sen s/o Shri Paras Ram Sen, aged about 33 years r/o P.No.273, Vishva Karma Colony, Jaipur, presently working as Cook - Casual Labour Group 'D' in Guest House O/o the Chief Commissioner of Income Tax, NCR Building, Statue Circle, Jaipur

.. Applicant

(By Advocate: Shri P.N.Jatti)

Versus

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

2. Chief Commissioner of Income Tax, N.C.R. Building, Statue Circle, Jaipur.

.. Respondents

(By Advocate: Shri R.B.Mathur)

OA No.107/2012

Ramesh Kumar Sharma s/o Shri J.P.Sharma, aged about 37 years r/o New Colony, Goner, Jaipur, presently working as Cook-Casual Labour Group 'D' in the O/o the Chief Commissioner of Income Tax, NCR Building, Statue Circle, Jaipur

.. Applicant

(By Advocate: Shri P.N.Jatti)

Versus

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

2. Chief Commissioner of Income Tax, N.C.R. Building, Statue Circle, Jaipur.

.. Respondents

(By Advocate: Shri R.B.Mathur)

OA No.108/2012

Bhagchand Gothwal s/o Ramdhan Gothwal, aged about 29 years, r/o village Eesrawala, via Morija, Jaipur, presently working as Peon-Casual Labour Group-D, in the O/o the Chief Commissioner of Income Tax, NCR Building, Statue Circle, Jaipur

.. Applicant

(By Advocate: Shri P.N.Jatti)

Versus

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

2. Chief Commissioner of Income Tax, N.C.R. Building, Statue Circle, Jaipur.

3. Commissioner Income Tax (II), NCR Building, Statue Circle, Jaipur

.. Respondents

(By Advocate: Shri R.B.Mathur)

OA No.109/2012

Suresh s/o Mamraj, aged about 37 years, r/o Kachhi Basti, Sastri Nagar, in front of Bajoria School, Jaipur, presently working as Farash-Casual Labour Group 'D' in the O/o the Chief Commissioner of Income Tax, NCR Building, Statue Circle, Jaipur

.. Applicant

(By Advocate: Shri P.N.Jatti)

Versus

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

2. Chief Commissioner of Income Tax, N.C.R. Building, Statue Circle, Jaipur.

3. Commissioner Income Tax (II), NCR Building, Statue Circle, Jaipur

.. Respondents

(By Advocate: Shri R.B.Mathur)

OA No.110/2012

Mukesh Kumar s/o Shyam Lal, aged about 37 years, r/o A-6, Shiv Nagar, Near Sophia School, Ghat Gate, Jaipur, presently working as Peon-Casual Labour Group-D, in the O/o the Chief Commissioner of Income Tax, NCR Building, Statue Circle, Jaipur

.. Applicant

(By Advocate: Shri P.N.Jatti)

Versus

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

2. Chief Commissioner of Income Tax, N.C.R. Building, Statue Circle, Jaipur.

3. Commissioner Income Tax (II), NCR Building, Statue Circle, Jaipur

.. Respondents

(By Advocate: Shri R.B.Mathur)

OA No.111/2012

Suresh Bahadur s/o Shri Megh Bahadur, aged about 23 years r/o C-70, Bhagwan Das Road, Jaipur, presently working as Cook-Casual Labour Group 'D' in Guest House O/o the Chief Commissioner of Income Tax, NCR Building, Statue Circle, Jaipur

.. Applicant

(By Advocate: Shri P.N.Jatti)

Versus

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

2. Chief Commissioner of Income Tax, N.C.R. Building, Statue Circle, Jaipur.

.. Respondents

(By Advocate: Shri R.B.Mathur)

OA No.112/2012

Jai Dev Mahawar s/o Shri Pratap Lal Mahawar, r/o P.No.25, Raj Hans Colony, Sector-3, Brahmpuri Road, Jaipur, presently working as Peon-Casual Labour Group 'D' in the O/o the Chief Commissioner of Income Tax, NCR Building, Statue Circle, Jaipur

.. Applicant

(By Advocate: Shri P.N.Jatti)

Versus

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

2. Chief Commissioner of Income Tax, N.C.R. Building, Statue Circle, Jaipur.

3. Commissioner Income Tax (II), NCR Building, Statue Circle, Jaipur

.. Respondents

(By Advocate: Shri R.B.Mathur)

OA No.113/2012

Gopal Singh s/o Shri Laxman Singh, aged about 30 years, r/o P.No.27, Karni Vaatika, Sirsi Road, Jaipur, presently working as Casual Labour Group 'D' in the O/o the Chief Commissioner of Income Tax, NCR Building, Statue Circle, Jaipur

.. Applicant

(By Advocate: Shri P.N.Jatti)

Versus

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

2. Chief Commissioner of Income Tax, N.C.R. Building, Statue Circle, Jaipur.

3. Commissioner Income Tax (CO), NCR Building, Statue Circle, Jaipur

.. Respondents

(By Advocate: Shri R.B.Mathur)

OA No.114/2012

Sanjiv Kumar Choudhary s/o Shri Inder Dev Choudhary, aged about 27 years, r/o Malviya Nagar, Income Tax Colony, Jaipur, presently working as Cook-Casual Labour Group 'D' in the O/o the Chief Commissioner of Income Tax, NCR Building, Statue Circle, Jaipur

.. Applicant

(By Advocate: Shri P.N.Jatti)

Versus

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

2. Chief Commissioner of Income Tax, N.C.R. Building, Statue Circle, Jaipur.

.. Respondents

(By Advocate: Shri R.B.Mathur)

OA No.115/2012

Ramesh Kumar Sen s/o Shri Paras Ram Sen, aged about 36 years r/o P.No.275, Vishva Karma Colony, Jaipur, presently working as Waiter-Casual Labour Group 'D' in the O/o the Chief Commissioner of Income Tax, NCR Building, Statue Circle, Jaipur

.. Applicant

(By Advocate: Shri P.N.Jatti)

Versus

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

2. Chief Commissioner of Income Tax, N.C.R. Building, Statue Circle, Jaipur.

.. Respondents

(By Advocate: Shri R.B.Mathur)

OA No.116/2012

Bhanwar Singh Rajawat s/o Indra Singh Rajawat, aged about 36 years r/o village Pipla Bharat Singh, Post Jaisinghpura via Bhankrota, Tehsil Sanganer, Distt. Jaipur, presently working as Peon-Casual Labour Group 'D' in the O/o the Chief Commissioner of Income Tax, NCR Building, Statue Circle, Jaipur

.. Applicant

(By Advocate: Shri P.N.Jatti)

Versus

1. Union of India through the Secretary to the Government of India, Ministry of Finance, Department of Revenue, New Delhi.
2. Chief Commissioner of Income Tax, N.C.R. Building, Statue Circle, Jaipur.
3. Commissioner Income Tax (II), NCR Building, Statue Circle, Jaipur

.. Respondents

(By Advocate: Shri R.B.Mathur)

OA No.398/2011

Mahesh Nalawat s/o Ram Dayal, aged about 34 years r/o P.No.236, Gopalpura By Pass, presently working as Peon-Casual Labour Group 'D' in the O/o the Director of Income Tax (Investigation), NCR Building, Statue Circle, Jaipur

.. Applicant

(By Advocate: Shri P.N.Jatti)

Versus

1. Union of India, through the Secretary to the Government of India, Ministry of Finance, Department of Revenue, New Delhi.
2. Chief Commissioner of Income Tax, N.C.R. Building, Statue Circle, Jaipur.

.. Respondents

(By Advocate: Shri Gaurav Jain

ORDER (ORAL)

The aforementioned OAs were finally heard together due to similar facts and the law involved and ordered to be listed for dictation of orders. Accordingly, these are being disposed of today by this common order. OA No. 398/2011 also involves the similar controversy and with the consent of the parties, the same is also being disposed of alongwith these OAs by this order.

2. Before dealing with the factual as well legal issues involved in the aforesaid OAs, I would like to refer the OA No.27/2010, Kamal Kumar Soni vs. Union of India, preferred before this Tribunal by which following reliefs were claimed:-

> "1. That by a suitable writ/order or the direction the respondents be directed to engage the applicant continuously and order dated 12.1.2010 vide Ann.A/2 be quashed and set-aside.
>
> 2. That by a suitable writ/order or the direction the respondents be directed not to engage the fresh casual labours for the work of the applicant and the work of the applicant may not be done through the contractor.
>
> 3. That further by a suitable writ/order or the direction the respondents be directed not to insist the applicant to join the services of the applicant.
>
> 4. Any other relief which the Hon'ble Bench deems fit."

The matter was finally heard the disposed of along with other similar matters by this Tribunal vide order dated 18th March, 2010 observing as under:-

"8. Before parting with the matter, it may be 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. 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 not before this Tribunal as held by the Hon'ble High Court of Andhra Pradesh in Writ Petition No.14715 of 2005 decided on 3.6.2008 relevant portion of which has been reproduced in the earlier part of this judgment.

3. Another OA No.669/2011 was filed before this Tribunal claiming the following reliefs:-

"(i) That the original application made by the applicants may kindly be allowed and the policy of the respondents to engage the employees through contractor firm may kindly be quashed and set-aside. The work which the applicants are performing from last many years, the same may be allowed to be performed by the applicants without using the services of placement agencies.

(ii) The process initiated by the respondents for engaging the placement agencies and further the agreement between the placement agency and the official respondents may kindly be quashed and set-aside.

(iii) The official respondents may be directed to allow the applicants performing duty in the office of Income Tax Department in direct supervision and control of the respondent department without using the services of the service provider/placement agency.

(iv) That the respondents may be directed not to use the service of placement agencies for performing the work of regular nature in future also.

(v) Any other order or direction which deem fit and proper in the facts and circumstances of the case may also be passed in favour of the applicant.

(vi) Cost of this original application also may be awarded in favour of the applicant."

4. The OA No.669/2011 along with other OAs involving similar controversy were disposed of by this Tribunal vide detailed order dated 1st May, 2012 observing as under:-

"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 not 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 taking 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 applicants 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 18.3.2010 passed by this Tribunal in OA No.27/2010 and other similar matters is pending consideration."

5. The aforesaid OAs were disposed of by this Tribunal in terms of order dated 18.3.2010 passed in OA No.27/2010 alongwith other similar matters and it is also ordered that the order dated 18.3.2010 shall be treated as part of the order. After the judgment rendered by this Tribunal on 1st May, 2012 in OA No.669/2011 along with other similar matters, further order dated 17.10.2012 has been passed in OA No.547/2011 wherein following reliefs have been claimed by the applicants:-

"(i) The impugned order dated 31.05.2011 issued by the respondents may be declared illegal and may kindly be quashed and set-aside. The directions may be issued to the respondents to allow the applicant pay and wages as per order issued on 18.10.2010. The O.M. dated 12.8.2008 may be ordered to be modified accordingly. Further the directions may be issued to the respondents to pay the arrears to the applicant's w.e.f. the 1st June 2011 till the lesser amount has been paid to the applicants.

(ii) The directions may be issued to the respondents to consider the claims of the applicant for temporary status.

(iii) Any other order or relief which this Hon'ble Tribunal deems just and proper may kindly be passed in favour of applicant.

(iv) Cost of the Original Application be awarded in favour of the humble applicant."

6. Having considered the relief claimed by the applicants, this Tribunal vide order dated 17.10.2012 observed as under:-

> "8. So far as the relief claimed by the applicants that the applicants may be granted temporary status is concerned, I am in full agreement with the learned counsel appearing for the respondents that the scheme 'Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993' was one time measure and was applicable only to the casual labourers working in the year 1993 and was not ongoing scheme and in view of the said scheme, the applicants cannot claim the benefit of temporary status or claim status at par with the workmen having temporary status. As already discussed hereinabove, the said scheme was one time measure and the same has been considered by the Hon'ble Supreme Court in the case of Union of India vs. Mohan Pal, reported in AIR 2002 SC 2001; Union of India vs. Gagan Kumar, reported in AIR 2005 SC 3107; Director General, Doordarshan vs. Manas Dey and Ors., reported in AIR 2006 SC 263 and Controller of Defence Accounts vs. Dhani Ram and Ors. reported in AIR 2007 SC 2650.
>
> 9. Therefore, in my considered view, the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993 is not applicable to the present case and the applicants cannot claim temporary status in view of the said scheme."

7. The purpose of referring the judgments in various OAs is relevant because in OA No.27/2010, the applicants have prayed that the respondents be directed to engage the applicants continuously and order dated 12.1.2010 (Ann.A/2) be quashed and set-aside by which the respondents invited tender for providing House-keeping Service/ Data Entry Operator/Security Guard through contractor. This Tribunal vide order dated 18th March, 2010 was of the view that no grievance has been made before the 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, they have not been put to a 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 and also observed that in view of the ratio decided by the Hon'ble High Court of Andhra Pradesh in Writ Petition No.14715/2005 decided on 3.6.2008, the dispute with regard to casual labour engaged through contractor is matter which is to be agitated before the appropriate forum and not before this Tribunal.

8. In addition to the relief claimed in OA No.27/2010, in OA No.669/2011 filed by Kailash Meena and others prayed that the policy of the respondents to engage the employees through contractor firm may kindly be quashed and set-aside and they may be allowed to perform the duties without using services of the placement agencies. This issue has been answered by this Tribunal vide order dated 1st May, 2012 placing reliance on the judgment dated 18th March, 2010 in OA No.27/2010. It is also considered by this Tribunal that the Writ Petition against the order dated 18th March, 2010 passed by this Tribunal is pending consideration and the Tribunal thought it proper that when the Hon'ble High Court is seized of the matter, the applicants may raise all sort of factual as well as legal issues before the Division Bench of the Hon'ble High Court, where the writ petition is pending.

9. Further in OA No.547/2011 along with other matters involving similar issue filed before this Tribunal, the applicants also claimed the relief that the respondents be directed to consider claim of the applicant for granting temporary status. This Tribunal with regard to granting temporary status vide order dated 17.10.2012 observed that the scheme 'Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993' was one time measure and was applicable only to the casual labourers working in the year 1993 and was not ongoing scheme and in view of the said scheme, the applicants cannot claim the benefit of temporary status or claim status at par with the workmen having temporary status. Further, the said scheme was one time measure and the same has been considered by the Hon'ble Supreme Court in the case of Union of India vs. Mohan Pal, reported in AIR 2002 SC 2001; Union of India vs. Gagan Kumar, reported in AIR 2005 SC 3107; Director General, Doordarshan vs. Manas Dey and Ors., reported in AIR 2006 SC 263 and Controller of Defence Accounts vs. Dhani Ram and Ors. reported in AIR 2007 SC 2650.

10. Now the present OAs have been filed by the applicants claiming more or less similar reliefs that the respondents be directed to regularize services of the applicants on completion of 240/206 days in a year with all consequential benefits as the services of the casual labours of the department of Posts and Telegraph has been

regularized as per the orders dated 12.4.1991 issued in compliance of the directions of the Hon'ble Supreme Court.

11. I have considered the relief seeking direction for regularization of services of the applicants. It is not out of place to mention here that the same issue was raised before this Tribunal in OA No.547/2011 and having considered the controversy involved alongwith the aforesaid OA, this Tribunal was of the view that the scheme which has been framed in pursuance to the direction issued by the Hon'ble Supreme Court, vide order dated 12.4.1991, was one time measure and this aspect is considered by the Hon'ble Supreme Court in the case of Union of India vs. Mohan Pal, reported in AIR 2002 SC 2001; Union of India vs. Gagan Kumar, reported in AIR 2005 SC 3107; Director General, Doordarshan vs. Manas Dey and Ors., reported in AIR 2006 SC 263 and Controller of Defence Accounts vs. Dhani Ram and Ors. reported in AIR 2007 SC 2650.

12. It is stated by the learned counsel appearing for the respondents that the cases of the applicants were considered in view of the scheme and also in view of record of individual by the respondents. Having considered the cases of the applicants, it is found that applicants are not entitled to be regularized, in view of the direction issued by the Hon'ble Supreme Court, as alleged by the applicants. Further, the learned counsel Shri R.B.Mathur, referred notification dated 17.1.2011 issued by the Ministry of Finance,

Department of Revenue, Central Board of Direct Taxes whereby in exercise of the powers conferred by the proviso to Article 309 of the Constitution and in supersession of the Income Tax Department (Group 'D') Recruitment Rules, except as respects things done or omitted to be done before such supersession, the President made 'the Income Tax Department (Multi Tasking Staff) Recruitment Rules, 2010' regulating the method of recruitment to the post of Multi Tasking Staff in the Income Tax Department and the post of Group 'D' has been abolished. The notification dated 17.1.2011 has not been challenged by the applicants in any of the aforesaid OAs. Vide the above notification, in supersession to the Income Tax Department (Group 'D') Recruitment Rules, 2003, the Income-Tax Department (Multi Tasking Staff) Recruitment Rules, 2010 have been framed. In such, eventuality, having considered this aspect also, the applicants are not entitled for regularization on the post of Group-D, which is not in existence.

13. Upon careful perusal of the judgment rendered by the Hon'ble Supreme Court in the case of Secretary, State of Karnataka and ors. vs. Uma Devi . [2006 (4) SCC 1] and DOPT OM dated 1.12.2006, a Committee was constituted by the CCIT, Jaipur to identify and recommend eligible cases of daily wage workers for regularization and the Committee has considered each and every aspect of daily wage workers for regularization, but did not find the applicants fit for regularization. Further, the Review Committee also considered the representations received from some of the applicants

and having considered each and every aspect objectively, it is found by the Review Committee that none of the persons found eligible as per the condition laid down in the Judgment of State of Karnataka vs. Uma Devi and others. The Committee also concluded that with the growing computerization, the services of Data Entry Operator, with every A.O. and in the offices of Addl.CsIT/CsIT/CCsIT were essentially required. As there are no sanctioned posts of DEOs and as the vacancies of stenos are not going to be filled in the near future, a new cadre of DEO should be got created. The CCIT (CCA), Delhi is believed to have submitted a comprehensive proposal in this regard and a copy of the same may be obtained from CBDT. Further, a number of DEOs, presently working as daily wagers, have rendered effective and commendable services. Their posting against regular post, once the cadre of DEOs is created, should be considered for appointment on a priority and/or giving weightage for their work experience.

14. In view of the recommendation made by the Review Committee, as per the conditions laid down in the case of Uma Devi (supra), none has been found eligible, but so far as DEOs are concerned, it is observed by the Committee that their cases should be considered once the cadre of DEOs is created on priority and/or giving weightage for their work experience.

15. As per the observations made by the Review Committee, the learned counsel for the respondents submitted that in case the applicants apply afresh as open candidates in view of notification dated 17.1.2011, their experience will be taken into consideration by the respondents as per rules.

16. In the light of the various judgments rendered by this Tribunal as well as by the Hon'ble Supreme Court and also in the case of State of Karnataka and others vs. Uma Devi and others (supra), it is evident that each and every aspect of the matter has already been dealt with in earlier judgments and by way of present OAs, the applicants are also claiming the same relief i.e. regularization of services on completion of 240/206 days in a year with all consequential benefits. Further, the Committee so constituted by the respondents has already considered the individual cases in view of the direction issued by the Hon'ble Supreme Court in the case of Uma Devi (supra) and none of the applicants has been found eligible for regularization. In such eventuality, I am of the considered view that no direction can be given to the respondents to reconsider cases of the applicants for regularization and all the OAs are devoid of merit.

17. However, in case the respondents consider the cases of the applicants as per notification dated 17.1.2011 or want to utilize the services and experience of the applicants for the post of MTS/DEO in any manner, as has been observed by the Committee so constituted

by the respondents, this order will not come in the way of the respondents to utilize services of the applicants.

18. With these observations, all the OAs stand disposed of with no order as to costs.

19. The Registry is directed to place a copy of this order in each of the case file.

(JUSTICE K.S.RATHORE)
Judl. Member

R/

copy given vide
No. 341 To 386
15/3/13