

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A No. 180/00681/2017

Tuesday, this the 9th day of October, 2018.

CORAM:

HON'BLE Mr. ASHISH KALIA, JUDICIAL MEMBER

1. C.T. Ajithkumar, 45 years,
S/o. Kandankutty,
Contingent Employee (Directorate of Revenue Intelligence),
Chittedath Thazhath House, Karikenkulam,
Karaparamba (P.O), Kozhikode – 673 010.
2. P.S. Najimudeen, 38 years,
S/o. P.K. Saidu,
Contingent Employee (Directorate of Revenue Intelligence),
Thozhuthingal House, Irumpupalam, Valara (P.O),
Idukki District – 685 561. - Applicants

[By Advocate Mr. C.S.G. Nair]

Versus

1. Union of India represented by its Secretary,
Department of Revenue, North Block, New Delhi – 110 001.
2. Chairman, Central Board of Excise and Customs,
North Block, New Delhi – 110 001.
3. Director General of Revenue Intelligence,
Directorate Intelligence Department,
D' Block, Indraprastha Bhavan, 7th Floor,
I.P. Estate, New Delhi – 110 002.
4. Additional Director General of Revenue Intelligence,
Directorate Intelligence Department, Zonal Unit,
No. 1103, 13th Cross, Indira Nagar II Stage,
Bengaluru – 560 038.
5. Additional Director of Revenue Intelligence,
Directorate Intelligence Department, Zonal Unit,
No. 19/1069-A, Tali, Chalapuram (P.O),
Kozhikode – 673 002.

6. Additional Director of Revenue Intelligence,
Directorate Intelligence Department, Zonal Unit,
Vilakunnel, Kaitoth Road, Palarivattom,
Cochin – 682 025. - Respondents

[By Advocates : Mr. P.R. Sreejith, ACGSC]

The application having been heard on 09.10.2018, the Tribunal on the same delivered the following:

ORDER (Oral):-

Per: Ashish Kalia, Judicial Member

The applicants have approached this Tribunal seeking temporary status and regularisation. The applicant No. 1 is working with Respondent No.3 since 01.02.1994 and the 2nd applicant from 15.01.1998 as casual worker. They are performing the duties of sweeping, cleaning of the office premises and they were asked to do the duty of Sweeper, Sepoy and Driver also. Apart from sweeping and cleaning of the office premises, they are performing the duties of photocopying, despatch work, etc. It is further submitted by the learned counsel for the applicants that applicants were utilised as full time employee by the Department. They are also occasionally doing the duties for gathering intelligence about the smuggling and tax evasion activities of the Department. It is submitted that the applicants are performing duties to the satisfaction of the respondent No.3 with all sincerity and honesty with the hope that they would be regularised in future. Respondent No. 5 has already requested to the Respondent No. 4 for taking action to regularise the services of the applicants as per

Annexure A-4. The letter written by the Deputy Director is :-

“In the cases of S/Shri C.T. Ajithkumar and T.S. Najeemudeen, it can be seen that though they were appointed as a part-time casual employees, they had been working full time in their respective offices doing all the works mentioned above due to the lack of Sepoys and ministerial staff. Both these persons are young, idealistic and loyal to the directorate and have proved time and again to be trustworthy. It has been pointed out by audit that since the appointment of the casual labourers was made in relaxation of the orders, approval of the DOPT may be obtained through Director General in order to regularise their employment such being the circumstances and keeping the well being of this unit in mind, I request that necessary sympathetic steps may kindly be taken to regularise the appointments of S/Shri C.T. Ajithkumar and T.S. Najeemudeen.”

2. Notices were issued and respondents put appearance and filed a brief reply statement.
3. Heard both sides at length.
4. Learned counsel for the applicant Mr. C.S.G Nair, drawn my attention to Annexure A-8 by which a Division Bench order passed by Bangalore Bench of this Tribunal and the same has been upheld by the Hon'ble High Court of Karnataka. The matter also went appeal in Supreme Court also (Annexure A-10). The order passed by the Hon'ble High Court of Karnataka has been upheld by the Hon'ble Supreme Court by dismissing the appeal of the respondents in ***Civil Appeal No. 1423-7429 of 2018 dated 01.08.2018 in Narendra Kumar Tiwari & Ors. Etc. v. The State of Jharkhand & Ors. Etc.***, wherein the Apex Court held as under:-

“11. Under the circumstances, we are of the view that the Regularisation Rules must be given a pragmatic interpretation and the appellants, if they have completed 10 years of service on the date of promulgation of the Regularisation Rules, ought to be given the benefit of the service rendered by them. If they have completed 10 years of service they should be regularised unless there is some valid objection to their regularisation like misconduct etc.

12. The impugned judgment and order passed by the High Court is set aside in view of our conclusions. The State should take a decision within four months from today on regularisation of the status of the applicants.”

5. Learned counsel for the respondents submitted that their representations are still pending. (Annexure A-14 and Annexure A-15)

6. I am of this view that in view of the legal position, facts and circumstances of the case, the applicants deserve sympathy and having merits on their side since they are working more than two decades under the respondents to their satisfaction, honesty and integrity. Thus, I have no hesitation to hold that respondents shall consider both the applicants in terms of the Bangalore Bench decision and upheld by the Hon'ble High Court of Karnataka. This exercise shall be completed within 60 days by passing a speaking order.

7. O.A is disposed of as above. No order as to costs.

(Dated, 9th October, 2018.)

(ASHISH KALIA)
JUDICIAL MEMBER

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Applicant's Annexures

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| Annexure A1 | - | True copy of the appointment order No. DRI/CLT/ESTT/94 dt: 01.02.1994. |
| Annexure A2 | - | True copy of Order No. DRI/CHN/Estt./98/ dt: 30.3.1998. |
| Annexure A3 | - | True copy of letter No. DRI/CRU/Estt./2004 dt: 30.12.2004 issued by the Assistant Director |
| Annexure A4 | - | True copy of letter F. No. DRI/CRU/ESTT/CONT/95/398 dt: 11.10.2001 issued by the 5 th respondent. |
| Annexure A5 | - | True copy of letter D.R.I.F. No. G-25017/1/00-BG dt: 16.10.2001 issued by the 4 th respondent. |
| Annexure A6 | - | True copy of Letter F. No. DRI/ CRU/ ADMN/2011 dt: 28.9.2011 issued by the 5 th respondent. |
| Annexure A7 | - | True copy of letter F.No. DRI/ CHN/ ADMN/11 dt: 11.10.2011 issued by the 6 th respondent. |
| Annexure A8 | - | True copy of common judgment in WP © Nos. 42814/2016 and 55957-61/2016 dt: 15.11.2016. |
| Annexure A9 | - | True copy of order dt: 20.10.2008 in O.A No. 145/2008. |
| Annexure A10 | - | True copy of order dt: 01.09.2014 of the Hon'ble Supreme Court. |
| Annexure A11 | - | True copy of Order dt: 5.12.2014 of the Hon'ble Supreme Court. |
| Annexure A12 | - | True copy of Order No. 33/2017 dt: 15.3.2017 issued by the Chief |

Commissioner of Central Excise,
Bangalore zone.

- Annexure A13 - True copy of Order No. 73/2017 dt: 28.4.2017 issued by the Chief Commissioner of Central Excise, Bangalore Zone.
- Annexure A14 - True copy of letter along with the representation submitted by the 1st applicant was forwarded to the 4th respondent on 06.06.2017 by the 5th respondent.
- Annexure A15 - True copy of letter along with the representation submitted by the 2nd applicant was forwarded to the 3rd respondent on 26.5.2017 by the 6th respondent.
- Annexure A16 - True copy of the letter No. DRI/CHN/Admn/15 dt: 17.12.2015 issued by the Assistant Director in 6th respondent's office.
- Annexure A17 - True copy of letter No. DRI/CHN/Admn./15 dt: 17.12.2015
- Annexure A18 - True copy of the DRI F.No. A-22015/04/2016-Estt. Prt. I dt: 4.01.2017 issued by the 3rd respondent.
- Annexure A19 - True copy of the representation dt: 26.5.2017.

Annexures of Respondents

NIL
