

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK**

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**O. A. No. 260/915 OF 2013  
Cuttack, this the 05<sup>th</sup> day of February, 2018**

**CORAM**

**HON'BLE MR. S. K. PATTNAIK, MEMBER(J)  
HON'BLE DR. M. SARANGI, MEMBER (A)**

.....

1. Shri Sikan Kumar Sahoo, aged about 29 years, S/o-Gobardhan Sahoo, At-Kumbhar Pada, Masjid Lane, PO-Puri-2, Dist-Puri.
2. Shri Harihar Sahoo, aged about 38 years, S/o. Late Syama Sahoo, At-Prachandapur, PO Dhanakera Abhayamukhi, Ramachandrapur, PS-Satyabadi, Dist-Puri.
3. Shri Manoj Kumar Behera, aged about 38 years, S/o. Hadibandhu Behera, At-Upper Malisahi, PO-Puri-2, Dist-Puri.
4. Shri Radha Krushna Behera, aged about 23 years, S/o-Prafulla Kumar Behera, At- Ganapatinagar(Kukudapada), PO-Balia, Dist: Balasore.
5. Shri Bamadev Sethi, aged about 31 years, S/o-Late Babajhi Sethi, At-Jagannath Bidhyadpur, PO-Sasandamdapur, PS- Sadar, Dist-Puri.
6. Shri N. Ganesh Reddy, aged about 35 years, S/o. N. Krishna Reddy, At-Jagannath Colony, (VIP Road), PS- Sea Beach, Dist-Puri.
7. Shri Ganeswar Jena, aged about 35 years, S/o. Late Chintamani Jena, At-Khandiabandha, PO-Gopinathpur, PS- Sadar, Dist-Puri.
8. Shri Pradeep Pattnaik, aged about 44 years, S/o- Hemant Kumar Pattnaik, At-Heragouri Sahi, PS-Khumbhar Pada, Dist- Puri-2.
9. Shri Pradeep Kumar Satpathy, aged about 40 years, S/o. Late Aniruddha Satpathy, At/Po. Alaversasan, PS-Balikuda, Via-Balikuda, Dist-Jagatsingpur.
10. Shri Tarachan Sahu, aged about 36 years, Son of Late Balinga Sahu, At- Sujeli, PO- Kurumingia, PS- G. Udayagiri, Dist- Kandhamala.
11. Shri Banambar Paikara, aged about 35 years, S/o- Late Antaryami Paikara, At/PO- Tirumala, PS-Jatni, Dist- Khurda.
12. Anadi Ghadai, aged about 36 years, S/o Rajani Ghadai, At/PO- Tukurihajira,PS- Bhagarai, Dist-Balasore.
13. Shri Amulya Kumar Gharai, Aged about 31 years, S/o-Late Rajani Gharai, At/PO-Tukurihajira, PS-Bhagarai, Dist-Balasore.
14. Shri Brundaban Pattnaik, aged about 41 years, S/o- Trinatha Pattnaik, At/PO- Rajapur, PS- Chhattrupur, Dist-Ganjam.
15. Shri Prasanna Kumar Parida, Aged about 43 years, S/o Late Sudarsan Parida, At/Po- Khairapalli, PS-Rasanpur, Dist- Nayagarh.

[All the above named Applicants are at present working as Driver/Peon under immediate administrative control of ITO MSTU, Puri/Guest House at Bhubaneswar]

(By the Advocate-M/s. J. M. Pattnaik, C. Panigrahi)

...Applicants

**-VERSUS-**

**Union of India Represented through**

1. Secretary, to Government of India, Ministry of Finance, Department of Revenue, Central Secretariat, New Delhi-110001.
2. The Central Board of Direct Taxes, Department of Revenue, represented by the Chairman, North Block, New Delhi-110001.
3. The Chief Commissioner of Income Tax, Orissa Aayakar Bhawan, Rajaswa Vihar, Vanivihar, Bhubaneswar, PIN-751007.
4. The Commissioner of Income Tax, Aayakar Bhawan, Rajaswa Vihar, Bhubaneswar, PIN-751007.
5. The Additional Commissioner of Income Tax, (Hqrs), Aayakar Bhawan, Rajaswa Vihar, Bhubaneswar, PIN-751007.
6. Administrative Officer(DDO), Office of the Commissioner of Income Tax, Aayakar Bhawan, 2<sup>nd</sup> Floor, Rajaswa Vihar, Bhubaneswar, PIN-751007.
7. The Income Tax Officer, Puri, in charge of Ministerial Training Unit cum Guest House at Puri.

...Respondents

(By the Advocate- Mr. S. Behera)

**ORDER**

**S. K. PATTNAIK, MEMBER (J):**

The applicants have filed this O.A. for the following relief as enumerated in para 8 of the O.A. :-

*“i. To quash and set aside the communication dated 09/13.05.2013 (Annexure-A/6) and also quash and set aside the letter dated 16<sup>th</sup> May, 2013 (Annexure-A/7) being based upon the circular dated 09/13.05.2013;*

*ii. To direct the Respondents to continue disbursing payments/remuneration/wage/payments to the applicants against their employment as per standard terms and conditions prevalent and being followed for the time being in the circumstances;*

*iii. To consider regularization of the applicants against Group ‘C’ & ‘D’ vacancies of the Department, taking into consideration their educational qualification and long continuance;*

*iv. To pass any other order/orders as deemed fit and proper.”*

2. In course of argument from both the Ld. Counsels one thing emerged that similarly situated casual workers of the same department had approached C.A.T., Principal Bench, New Delhi wherein their grievances have been redressed and the department has complied with the order. Ld. Counsel for the applicants has placed

reliance on a decision dated 22.04.2014 rendered by C.A.T., Principal Bench, New Delhi in O.A. No.2012/2013 where certain directions were imparted to the Department. Basing on the said decision passed in O.A. No.2012/2013 another set of casual workers had approached C.A.T., Principal Bench, New Delhi in O.A. No.1846/2013, 1921/2013 where the Hon'ble Tribunal vide order dated 22.05.2014 have disposed of the grievance of the applicants relying on the earlier observation made by C.A.T., Principal Bench, New Delhi in O.A. No.2012/2013.

3. Since the matter has already been adjudicated by C.A.T., Principal Bench, New Delhi and there is nothing on record to show that the said order has been challenged before the Hon'ble High Court of Delhi or that the order has been set aside or modified, by way of judicial precedent, we are bound by the said decision.

4. However, to put it on record we quote the observations of the Hon'ble C.A.T. Principal Bench passed in O.A. No.2012/13 on 22.04.2014 :-

*“12. We have heard the learned counsel for the Applicants Shri S. K. Gupta and the learned counsel for the Respondents Shri Rajinder Nischal. There is no dispute that many of the applicants have been working with respondents as casual labourers for over 10 years. One of them has been working w.e.f. 03.05..1995. He has put in nearly 20 years of casual service. There are others who have been engaged from the years 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005 and 2006. They are still continuing. By the impugned letter dated 09/13.05.2013, the Respondents-CBDT through the CIT(Vigilance) has only observed the CCIT/DGIT regions continue to ignore DOP&T OMs dated 07.06.1998, 10.09.1993, 12.07.1994 and 11.02.2006 with regard to engagement of casual labourers. The OM dated 07.06.1998 has already been extracted in this order. It deals with guidelines in the matter of recruitment of casual workers on daily wage basis. It also contains the provisions for regularization of services of the casual workers subject to the prescribed conditions. It is vide OM dated 10.09.1993 the casual labourers (Grant of Temporary Status and regularization) Scheme of Government of India, 1993 has been issued. It deals with the procedure for granting temporary status to casual labourers and their regularization in service. OM dated 12.07.1994 has been issued by the DOP&T clarifying the various references received by them regarding the aforesaid OM dated 10.09.1993 regarding grant of temporary status and regularization of casual workers. The OM dated 11.12.2006 deals with regularization of qualified workers appointed against sanctioned posts in irregular manner in the light of the judgment of the Apex Court in the case of the Uma Devi(supra). Therefore, the general statement of CIT(Vigilance), CBDT that the CCIT/DGITS have violated any of the aforesaid Office Memoranda in the case of the Applicants are not factually correct and it has*

*been made without any application of mind. Further, it is seen, as observed earlier, that the applicants have been working with the Respondents for fairly long time. Suddenly issuing a direction to CCITs/DGITS that they should ensure that none of the DDOs working in this region make any payments to the directly deployed casual workers in contravention of the Government/DOP&T orders and the judgment of the Supreme Court and bringing the applicants in this OA under the said directions is nothing but arbitrary and illegal. We therefore, quash and set aside the aforesaid impugned letters dated 09/13.05.2013 and 22.05.2013. We also make the stay granted against the operation of the aforesaid orders given on 11.06.2013 absolute. Further, we direct the Respondents to continue to disburse payments/remuneration/wage/payments to the Applicants against their employment as per the standard terms and conditions prevalent and being followed at present.*

13. *We also make it clear that the applicants who are still working as daily wagers/casual employees shall not be replaced by another set of daily wagers/casual labourers directly or through any other mode unless the disengagement is resorted to on the ground of unsuitability. As regard the prayer of the Applicants for regularization is concerned, we may profitably refer to the judgment of the Apex Court in Uma Devi Case(supra), the relevant part of which is reproduced as under:-*

44. *Once aspect needs to be clarified. There may be cases where irregular appointments(not illegal appointments) as explained in S.V. Narayanappa (supra), R.N. Nanjundappa (supra), and B.N. Nagarajan (Supra) and referred to in Paragraph 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of courts or of tribunals. The question of regularization of the services of such employees may have to be considered on merits in the light of the principles settled by this court in the cases above referred to and in the light of this judgment. In that context, the Union of India, the State Government and their instrumentalities should taken steps to regularize as a one time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularization, if any already made, but not subjudice, need not be reopened based on this judgment, but there should be no further by passing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme.”*

5. Since law has already been set at rest in the meantime, the present O.A. is disposed of with a direction to the Respondents to adopt the same ratio as has been observed by the C.A.T. Principal Bench in the aforesaid decision, and to extend the same treatment to the present applicants, provided they are similarly placed and eligible

for consideration keeping in view individual entitlement and departmental norms. No costs.

(DR. M. SARANGI)  
MEMBER (A)

( S. K. PATTNAIK)  
MEMBER (J)

K.B.