

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.663 of 2013
Cuttack this the 10th day of August, 2018

CORAM:
HON'BLE DR.MRUTYUNJAY SARANGI, MEMBER(A)

Shri Babuli Rout, aged about 43 years, S/o. Late Nabaghana Rout, At-Hansaro, PO-Siaro, PS-Gop, Dist-Puri – now working as a Casual Worker awarded with 1/30th status at Archaeological Survey of India, Bhubaneswar Circle, Dist-Khurda.

...Applicant
By the Advocate(s)-Mr.D.K.Mohanty

-VERSUS-

Union of India represented through:

1. The Secretary, Ministry of Culture, Sashtri Bhawan, C Wing, New Delhi-110 001.
2. Director General, Archaeological Survey of India, Janpath, New Delhi-110 011.
3. Superintending Archaeologist, Archaeological Survey of India, Bhubaneswar Circle, At-Toshali Apartment, Block No.VI(B), PO-Satyanagar, Bhubaneswar, Dist-Khurda.
4. Superintending Archaeologist, Archaeological Survey of India, Delhi Circle, Sabdarjung Tomb, New Delhi-110 003.

...Respondents

By the Advocate(s)-Mr.S.Behera

ORDER
DR.MRUTYUNJAY SARANGI, MEMBER(A)

The applicant who was working as a casual worker with 1/30th status in the Archaeological Survey of India (ASI) at Bhubaneswar at the time of filing this O.A. has prayed for the following reliefs:

- i) Let the Respondents be directed to Grant Temporary Status and regularize the service of present applicant under Bhubaneswar Circle for the ends of justice by quashing Annexure-A/8.

ii) Let any other order/orders be passed as the Hon'ble Tribunal deems fit and proper.

2. Brief facts of the case are as follows:

The applicant has been working as casual worker with 1/30th status under the Archaeological Survey of India (ASI), Bhuabneswar since the year 1991. He had earlier approached this Tribunal in O.A.No.1089 of 2012 which was disposed of on 09.01.2013 with a direction to the Director General, ASI (Res.No.2) to consider the representation dated 15.07.2011 and pass a reasoned and speaking order within a period of six weeks from the date of receipt of Tribunal's order. In compliance with the orders of this Tribunal, the Respondents rejected the representation of the applicant on the ground that no juniors to him have been granted temporary status nor have their services been regularized against Group-D posts. Challenging the said order, the applicant has filed this O.A. with the prayer as at Para-1 above.

3. The applicant has based his prayer mainly on the ground that he has been working continuously as casual labour since the year 1991 and he has been conferred 1/30th status on 5.8.2008. Similarly situated persons like the applicant have been regularised following the judgments of various Court of Law. Since he has served for more than 22 years, he is entitled to grant of temporary status and regularization.

4. The respondents in their counter filed on 19.5.2014 have contested the claim of the applicant. They have submitted that the applicant is working as casual worker and has not worked for at least 240 days in a year. He is not entitled to regularization as per 1993 Scheme.

5. The applicant in his rejoinder filed on 19.8.2014 has reiterated his stand that he has been working continuously for the last 22 years and similarly

placed persons have already been granted temporary status. He has enclosed the office order dated 21.2.2012 in which 51 persons have been regularized in the post of Monument Attendants in PB-1 from Temporary Status Worker.

6. The matter was heard on 26.7.2018 and reserved for orders. After going through the records, I find that similar matters in O.A.Nos.985/14, 26/15,27/15,28/15,49/15, 50/15,986/14, 987/14, 1107/14/1113/14 & 1115/14 covering this aspect have already been disposed of by this Tribunal on 31.07.2018. The relevant part of the judgment is as follows:

“6. *The matter was heard on 18.7.2018. During the course of argument, learned counsel for the applicants placed reliance on the order dated 25.05.2018 in O.A.No.652 of 2013 in which a similarly placed casual worker with 1/30th status working at Ratnagiri Musium has been granted relief by the Tribunal.*

7. *I have heard the learned counsels from both the sides and perused the documents submitted by them. The issue to be decided in the present O.A. is whether the applicants are eligible for conferment of temporary status and subsequent regularization as per rules.*

8. *Office Order No.113 dated 21.04.2005 at A/1 reads as follows:*

“In pursuance of the guidelines contained in the para-iv OF THE O.M.No.F.49014/2/86-Estt.(C) dated 7th June, 1988 of the Ministry of Personnel, Public Grievances and Pensions, New Delhi and keeping in view the instructions under Para 3 & 4 of Director General, Archaeological Survey of India's Letter No.F.98/4/85-Admn.II dated 20.1.89 regarding recruitment of Casual Workers. The following casual labourers working under Bhubaneswar Sub-Office and completed 240 days for two years or more and performing similar nature of work as those of Group 'D' Employees (Garden Attendant) will be paid @ 1/30th of the pay at the minimum of the Group 'D' pay scale (Rs.2550/-) plus usual D.A. as admissible from time to time starting from 01.05.2005.

*Per day wages will be
Rs.2550/- pay + Rs.1275(D.A.50%) +Rs.650 (DA 17%)
=Rs.4475 =Rs.149.00.*

The expenditure involved will be met out from A.R. estimates. The concerned Executive Assistant will pay enhanced rate of wages accordingly.

1. *Sri PitabasSubudhi*

2. *Sri Rajo Reddy*
3. *Sri Gouri Shankar Barik*
4. *Sri Uttam Ray*
5. *Sri PramodPradhan*
6. *Sri Krishna Reddy*
7. *Sri NityanandSahoo*
8. *Sri BabuliSethi*
9. *Sri DuryodhanKandi*
10. *Sri KashinathPradhan*
11. *Sri LaxmidharSahoo*
12. *Sri PanchananPradhan*
13. *Sri GopalCh.Mohanty*
14. *Sri SaratCh.Mahari*
15. *Sri PitabasPani*
16. *Sri Devendra Jena*
17. *Sri Sridhar Behera*
18. *Sri Kishore Ku.Behera*

9. *All the applicants in the present O.As are covered by the above order and they have been granted 1/30th status through this order. This Tribunal has already considered the case of one Rabindra Kumar Mallick in O.A.No.652 of 2013 who had not been granted temporary status. After considering all the facts of the case in O.A.No.652 of 2013, this Tribunal, where the judgment was authored by me, had passed the following order.*
- “10. *This Tribunal had considered the cases relating to temporary status in a number of Original Applications. Recently in O.A.No.438 of 2014 this Tribunal discussing the facts of the case relating to an employee of the Department of Posts and taking into account the judgment of the Hon’ble Supreme Court in AmarkantRai vs. State of Bihar &Ors. in Civil Appeal No.2835/2015 [arising out of SLP (Civil) No.20169/2013] decided on 13.3.2005 and considering the fact that the applicant in that O.A. has been working continuously with the Department, it was ordered that temporary status should be given to him from the date the temporary status scheme was introduced in the Department and subsequently he is entitled to regularization. In O.A.No.412 of 2014, the applicant was working in the Central Institute of Fresh Water Aquaculture. This Tribunal disposed of the said O.A. with a direction to the respondents to take a decision regarding regularization or giving temporary status to the applicant if he was otherwise eligible in terms of official guidelines, norms and procedure. Similar orders were also passed in O.A.Nos.187/2017 and O.A.No.408/14.*
11. *The applicant has drawn my attention to Office Order No.33 dated 3.8.2011 by which temporary status was awarded to 50 casual labours under the Scheme of 1993 in pursuance of the orders of this Tribunal in O.A.No.852/96 dated 23.1.2000, in O.A.No.266/97 dated 12.4.2002 and in O.A.Nos.81 & 82 of*

1998 dated 12.5.2002 and the common judgment of the Hon'ble High Court of Orissa dated 20.2.2009 and the orders of the Hon'ble Apex Court in SLP Nos.17158/09, 17758/09 and 18119/09. The applicant has filed copy of the order in O.A.Nos. 81 & 82 of 1998 in which the direction was given to the Archaeological Survey of India (Respondents in the present O.A.) to consider the grant of temporary status to the applicants in terms of the Scheme at A/2 of the O.A.

12. *Taking into consideration the facts of the present case, judicial pronouncements in the above mentioned OAs and various orders of the Tribunal as well as the Hon'ble High Court and the Hon'ble Apex Court, it is quite obvious that the case of the applicant who has already been granted 1/30th status deserves to be considered for grant of temporary status and consequent regularization under the Scheme of 1993. The applicant is entitled to grant of temporary status from the date his juniors who had initially joined as casual workers were granted temporary status. The Respondents are directed to pass the necessary and appropriate orders to that effect within a period of eight weeks from the date of receipt of this order. With the aforesaid direction, the O.A. is disposed of with no order as to costs".*
10. *The facts and the points of law involved in all the OAs being similar to O.A.No.652 of 2013, I follow the judgment earlier passed by this Tribunal and direct the Respondents to consider the case of all the applicants for grant of temporary status and consequent regularization under the Scheme of 1993. The applicants are entitled to grant of temporary status with all consequential benefits from the date(s) their juniors who had initially joined as casual workers were granted temporary status. The Respondents are directed to pass necessary orders to that effect within a period of eight weeks from the date of receipt of this order.*
11. *With the aforesaid direction, all the O.As are disposed of with no order as to costs".*

7. Since the facts of the present O.A. are identical to the facts of the batch of cases as mentioned above, following the same ratio, I direct the Respondents to consider the case of the applicant for grant of temporary status and consequent regularization under the Scheme of 1993. The applicant is entitled to grant of temporary status with all consequential benefits from the date his juniors who had initially joined

as casual workers were granted temporary status. The Respondents are directed to pass necessary orders to that effect within a period of eight weeks from the date of receipt of this order.

8. With the aforesaid direction, the O.A. is disposed of with no order as to costs.

(DR.MRUTYUNJAY SARANGI)
MEMBER(A)

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