

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.Nos.985/14, 26/15,
27/15,28/15,49/15,50/15,986/14,987/14,1107/14.1113/14,1114/14 &
1115/14

Cuttack this the 31st day of July, 2018

CORAM:

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

In O.A.No.985 of 2014

Shri Gourisankar Bariik, aged about 47 years, S/o. late Agadhu Barik, At-Fakirsahipatna, PO-Kakatpur, Bhubaneswar, Dist-Puri at present working as a Casual Worker awarded with 1/30th Status at Mukteswar Temple, Archaeological Survey of India Site (Horticulture Division-IV), Kedargouri, Bhubaneswar, Dist-Khurda, Odisha

...Applicant

By the Advocate(s)-M/s.D.K.Mohanty

-VERSUS-

Union of India represented through:

1. The Secretary, Ministry of Culture, Government of India, Shastri Bhawan, New Delhi-110 001
2. Director General, Archaeological Survey of India, Janpath, New Delhi-110 001
3. Chief Horticulturist, Archaeological Survey of India, Eastern Gate, Taj Mahal, Agra-282 001, Uttar Pradesh
4. Dy. Superintending Horticulturist, Archaeological Survey of India, Division-IV, Satyanagar, Bhubaneswar-07, Dist-Khurda, Odisha
5. Jambeswar Das, aged about 42 years, S/o. Sri Gouranga Das, At-Narada, PO-Turintera, PS-Balipatna, Dist-Khurda – at present working as Monument Attendant, Udaygiri, Archaeological Survey of India Site, At/PO-Udaygiri, PS-Balichandrapur, Dist-Jajpur, Odisha

...Respondents

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

In O.A.No.260/26 of 2015

Shri Krishna Reddy, aged about 45 years, S/o. S.Jagea Reddy, At/PO-Samantrapur, Bhubaneswar, Dist-Khurda, at present working as a Casual Worker awarded with 1/30th Status at

Rajarani Temple, Archaeological Survey of India Site (Horticulture Division-IV), Ravi Talkies Square, Bhubaneswar, Dist-Khurda, Odisha

...Applicant

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

-VERSUS-

Union of India represented through:

1. The Secretary, Ministry of Culture, Government of India, Shastri Bhawan, New Delhi-110 001
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4. Dy. Superintending Horticulturist, Archaeological Survey of India, Division-IV, Satyanagar, Bhubaneswar-07, Dist-Khurda, Odisha
5. Jambeswar Das, aged about 42 years, S/o. Sri Gouranga Das, At-Narada, PO-Turintera, PS-Balipatna, Dist-Khurda – at present working as Monument Attendant, Udaygiri, Archaeological Survey of India Site, At/PO-Udaygiri, PS-Balichandrapur, Dist-Jajpur, Odisha

...Respondents

By the Advocate(s)-Mr.G.R.Verma

In O.A.No.260/27 of 2015

Shri Pitabash Subudhi, aged about 45 years, S/o. late Bhikari Subudhi, At/PO-Sisupalgarh, Bhubaneswar, Dist-Khurda, at present working as a Casual Worker awarded with 1/30th Status at Bhaskereswar Temple, Archaeological Survey of India Site (Horticulture Division-IV), Tankapani Road, Bhubaneswar, Dist-Khurda, Odisha

...Applicant

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

-VERSUS-

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1. The Secretary, Ministry of Culture, Government of India, Shastri Bhawan, New Delhi-110 001
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5. Jambeswar Das, aged about 42 years, S/o. Sri Gouranga Das, At-Narada, PO-Turintera, PS-Balipatna, Dist-Khurda – at present working as Monument Attendant, Udaygiri, Archaeological Survey of India Site, At/PO-Udaygiri, PS-Balichandrapur, Dist-Jajpur, Odisha

...Respondents

By the Advocate(s)-Mr.A.K.Mohapatra

In O.A.No.260/28 of 2015

Shri Babuli Sethi, aged about 46 years, S/o. Sri Harihar Sethi, At-Halidibasanta, PO-Kailo, Dist-Khurda, at present working as a Casual Worker awarded with 1/30th Status at Khandagiri, Archaeological Survey of India Site (Horticulture Division-IV), Khandagiri Square, Bhubaneswar, Dist-Khurda, Odisha

...Applicant

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

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4. Dy. Superintending Horticulturist, Archaeological Survey of India, Division-IV, Satyanagar, Bhubaneswar-07, Dist-Khurda, Odisha
5. Jambeswar Das, aged about 42 years, S/o. Sri Gouranga Das, At-Narada, PO-Turintera, PS-Balipatna, Dist-Khurda – at present working as Monument Attendant, Udaygiri, Archaeological Survey of India Site, At/PO-Udaygiri, PS-Balichandrapur, Dist-Jajpur, Odisha

...Respondents

By the Advocate(s)-Mr.S.B.Mohanty

In O.A.No.260/49 of 2015

Shri Uttam Kumar Roy@ Barik, aged about 43 years, S/o. Sri Ranjan Roy, At-Ashram Lane, PO-Old Town, Bhubaneswar, Dist-Khurda – at present working as a Casual Worker awarded with 1/30th Status at Rajarani Temple, Archaeological Survey of India Site (Horticulture Division-IV), Ravi Talkies Square, Bhubaneswar, Dist-Khurda, Odisha

...Applicant

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

Union of India represented through:

1. The Secretary, Ministry of Culture, Government of India, Shastri Bhawan, New Delhi-110 001
2. Director General, Archaeological Survey of India, Janpath, New Delhi-110 001
3. Chief Horticulturist, Archaeological Survey of India, Eastern Gate, Taj Mahal, Agra-282 001, Utter Pradesh
4. Dy. Superintending Horticulturist, Archaeological Survey of India, Division-IV, Satyanagar, Bhubaneswar-07, Dist-Khurda, Odisha
5. Jambeswar Das, aged about 42 years, S/o. Sri Gouranga Das, At-Narada, PO-Turintera, PS-Balipatna, Dist-Khurda – at present working as Monument Attendant, Udaygiri, Archaeological Survey of India Site, At/PO-Udaygiri, PS-Balichandrapur, Dist-Jajpur, Odisha

...Respondents

By the Advocate(s)-Mr.M.R.Mohanty

In O.A.No.260/50 of 2015

Shri S.Raju Reddy, aged about 43 years, S/o. S.Joggye Reddy, At/PO-Berhampur, Dist-Ganjam – at present working as a Casual Worker awarded with 1/30th Status at Lingaraj Temple, Archaeological Survey of India Site (Horticulture Division-IV), Old Town, Bhubaneswar, Dist-Khurda, Odisha

...Applicant

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

-VERSUS-

Union of India represented through:

1. The Secretary, Ministry of Culture, Government of India, Shastri Bhawan, New Delhi-110 001
2. Director General, Archaeological Survey of India, Janpath, New Delhi-110 001
3. Chief Horticulturist, Archaeological Survey of India, Eastern Gate, Taj Mahal, Agra-282 001, Uttar Pradesh
4. Dy. Superintending Horticulturist, Archaeological Survey of India, Division-IV, Satyanagar, Bhubaneswar-07, Dist-Khurda, Odisha
5. Jambeswar Das, aged about 42 years, S/o. Sri Gouranga Das, At-Narada, PO-Turinter, PS-Balipatna, Dist-Khurda – at present working as Monument Attendant, Udaygiri, Archaeological Survey of India Site, At/PO-Udaygiri, PS-Balichandrapur, Dist-Jajpur, Odisha

...Respondents

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

In O.A.No.260/986 of 2014

Shri Pramod Pradhan, aged about 40 years, S/o. late Smonath Pradhan, At-Kapilaprasad, PO-Old Town, Bhubaneswar, Dist-Khurda – at present working as a Casual Worker awarded with 1/30th Status at Bhaskereswar Temple, Archaeological Survey of India Site (Horticulture Division-IV), Tankapani Road, Bhubaneswar, Bhubaneswar, Dist-Khurda, Odisha

...Applicant

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

Union of India represented through:

1. The Secretary, Ministry of Culture, Government of India, Shastri Bhawan, New Delhi-110 001
2. Director General, Archaeological Survey of India, Janpath, New Delhi-110 001
3. Chief Horticulturist, Archaeological Survey of India, Eastern Gate, Taj Mahal, Agra-282 001, Uttar Pradesh
4. Dy. Superintending Horticulturist, Archaeological Survey of India, Division-IV, Satyanagar, Bhubaneswar-07, Dist-Khurda, Odisha

5. Jambeswar Das, aged about 42 years, S/o. Sri Gouranga Das, At-Narada, PO-Turintera, PS-Balipatna, Dist-Khurda – at present working as Monument Attendant, Udaygiri, Archaeological Survey of India Site, At/PO-Udaygiri, PS-Balichandrapur, Dist-Jajpur, Odisha

...Respondents

By the Advocate(s)-Mr.P.K.Mohanty

In O.A.No.260/987 of 2014

Shri Debendra Jena, aged about 43 years, S/o. Bhaskar Jena, At-Jagannath Prasad, PO-Andharua, Dist-Khurda, – at present working as a Casual Worker awarded with 1/30th Status at Chitrakarini Temple, Archaeological Survey of India Site (Horticulture Division-IV), Old Town, Bhubaneswar, Dist-Khurda, Odisha

...Applicant

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

Union of India represented through:

1. The Secretary, Ministry of Culture, Government of India, Shastri Bhawan, New Delhi-110 001
2. Director General, Archaeological Survey of India, Janpath, New Delhi-110 001
3. Chief Horticulturist, Archaeological Survey of India, Eastern Gate, Taj Mahal, Agra-282 001, Utter Pradesh
4. Dy. Superintending Horticulturist, Archaeological Survey of India, Division-IV, Satyanagar, Bhubaneswar-07, Dist-Khurda, Odisha

...Respondents

By the Advocate(s)-Mr.B.Swain

In O.A.No.260/1107 of 2014

Shri Kashinath Pradhan, aged about 40 years, S/o. late Kailash Pradhan, At/PO-Tankapani Road, Bhubaneswar, – at present working as a Casual Worker awarded with 1/30th Status at Lingaraj Temple, Archaeological Survey of India Site (Horticulture Division-IV), Old Town, Bhubaneswar, Dist-Khurda, Odisha

...Applicant

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

-VERSUS-

Union of India represented through:

1. The Secretary, Ministry of Culture, Government of India, Shastri Bhawan, New Delhi-110 001
2. Director General, Archaeological Survey of India, Janpath, New Delhi-110 001
3. Chief Horticulturist, Archaeological Survey of India, Eastern Gate, Taj Mahal, Agra-282 001, Uttar Pradesh
4. Dy. Superintending Horticulturist, Archaeological Survey of India, Division-IV, Satyanagar, Bhubaneswar-07, Dist-Khurda, Odisha

...Respondents

By the Advocate(s)-Mr.P.R.J.Dash

In O.A.No.260/1113 of 2014

Shri Pitabash Pani, aged about 40 years, S/o. Banshidhar Pani, At/PO-Baragarh, Bhubaneswar – at present working as a Casual Worker awarded with 1/30th Status at Khandagiri, Archaeological Survey of India Site (Horticulture Division-IV), Khandagiri Square, Bhubaneswar, Dist-Khurda, Odisha

...Applicant

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

-VERSUS-

Union of India represented through:

1. The Secretary, Ministry of Culture, Government of India, Shastri Bhawan, New Delhi-110 001
2. Director General, Archaeological Survey of India, Janpath, New Delhi-110 001
3. Chief Horticulturist, Archaeological Survey of India, Eastern Gate, Taj Mahal, Agra-282 001, Uttar Pradesh
4. Dy. Superintending Horticulturist, Archaeological Survey of India, Division-IV, Satyanagar, Bhubaneswar-07, Dist-Khurda, Odisha

...Respondents

By the Advocate(s)-Mr.A.Pradhan

In O.A.No.260/1114 of 2014

Shri Sridhar Behera, aged about 37 years, S/o. Kelu Behera, At/PO-Samantrapur, Bhubaneswar – at present working as a Casual Worker awarded with 1/30th Status at Chausathi Jogini Temple, Archaeological Survey of India Site (Horticulture Division-IV), Hirapur, Dist-Khurda, Odisha

...Applicant

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

-VERSUS-

Union of India represented through:

1. The Secretary, Ministry of Culture, Government of India, Shastri Bhawan, New Delhi-110 001
2. Director General, Archaeological Survey of India, Janpath, New Delhi-110 001
3. Chief Horticulturist, Archaeological Survey of India, Eastern Gate, Taj Mahal, Agra-282 001, Utter Pradesh
4. Dy. Superintending Horticulturist, Archaeological Survey of India, Division-IV, Satyanagar, Bhubaneswar-07, Dist-Khurda, Odisha

...Respondents

By the Advocate(s)-Mr.A.C.Deo

In O.A.No.260/1115 of 2014

Shri Laxmidhar Sahoo, aged about 41 years, S/o. Kelu Sahoo At/PO-Samantrapur, Bhubaneswar – at present working as a Casual Worker awarded with 1/30th Status at Rameswar Temple, Archaeological Survey of India Site (Horticulture Division-IV), At/PO-Kalpana, Bhubaneswar, Dist-Khurda, Odisha

...Applicant

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

-VERSUS-

Union of India represented through:

1. The Secretary, Ministry of Culture, Government of India, Shastri Bhawan, New Delhi-110 001
2. Director General, Archaeological Survey of India, Janpath, New Delhi-110 001
3. Chief Horticulturist, Archaeological Survey of India, Eastern Gate, Taj Mahal, Agra-282 001, Utter Pradesh

4. Dy. Superintending Horticulturist, Archaeological Survey of India, Division-IV, Satyanagar, Bhubaneswar-07, Dist-Khurda, Odisha

...Respondents

By the Advocate(s)-Mr.B.R.Mohapatra

ORDER

DR.MRUTYUNJAY SARANGL, MEMBER(A):

All the 12 OAs involve similar facts and points of law as well as identical reliefs sought for. Therefore, they are being disposed of through this common order.

2. The applicants have been working as casual worker with 1/30th status for varying lengths of time at different sites of the Archaeological Survey of India (Horticulture Division-IV), Kedargouri, Bhubaneswar. They had earlier approached this Tribunal through different OAs which were disposed of with a direction to the Respondent Nos. 2 & 4 to consider their representation and communicate the result thereof within a period of 45 days from the date of receipt of the Tribunal's order. In pursuance of this Tribunal's order the Deputy Superintending Horticulturist, Archaeological Survey of India, Hort. Division No.IV, Bhubaneswar (Res.No.4) had considered the representations of the applicants and rejected them. Aggrieved by this rejection order, the applicants have filed the present O.A. praying for a direction to the Respondent No.1 to 4 to consider the case of the applicants to grant temporary status

and regularize and allow them to work as casual worker in their places of working and to extend all the service and consequential benefits to which they are entitled to with effect from the date of enjoyment of such benefit by their other colleagues by quashing the illegal orders of the Deputy Superintending Horticulturist, Archaeological Survey of India, Hort. Division No.IV, Bhubaneswar (Res.No.4).

3. The applicants have based their prayer mainly on the ground that the Respondents have acted illegally and arbitrarily by denying temporary status to them and refusing to regularize their service. Their juniors have already acquired temporary status and regularization. Hence denial of temporary status to the applicants is violative of Articles 14 & 16 of the constitution. The applicants have already rendered more than 20 years of continuous service as casual labour and are therefore entitled to temporary status and regularization.

4. The Respondents on the other hand have contested the claim of the applicants. They have raised the issue of limitation since regularization is being sought under the Scheme "Casual Labourers (Grant of Temporary Status & Regularization), 1993 issued by the Government of India, Department of Personnel & Training. According to Respondents, the cause of action should have arisen immediately after the introduction of the Regularization Scheme of 1993. The applicants have

approached this Tribunal after a lapse of many years and therefore, the O.A. is barred by limitation. It is their contention that the applicants have not completed 240 days of work during the years in which they have claimed to be working continuously under the Respondents. The circular dated 10.9.1993 clearly mentions that temporary status will be conferred on those casual labourers who are in employment on the date of issue of OM dated 10.9.1993 and they should have rendered a continuous service of at least one year meaning thereby that they must have been engaged for a period of at least 240 days in a year. The Respondents have claimed that the applicants are not eligible for conferment of temporary status and regularization since they have not rendered service for more than 240 days in a year on continuous basis.

5. In the rejoinder filed by them the applicants have claimed that the cause of action has arisen after the representation submitted by them had been rejected by the Respondents and therefore, the O.A. filed by them is within the permissible period after such rejection. The Respondent No.2 has accorded approval to similarly placed 55 persons for granting of temporary status whereas the applicants have been denied temporary status and regularization. Therefore, they are entitled to the relief prayed for by them.

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 Pitabas Subudhi
2. Sri Rajo Reddy
3. Sri Gouri Shankar Barik
4. Sri Uttam Ray
5. Sri Pramod Pradhan

6. Sri Krishna Reddy
7. Sri Nityanand Sahoo
8. Sri Babuli Sethi
9. Sri Duryodhan Kandi
10. Sri Kashinath Pradhan
11. Sri Laxmidhar Sahoo
12. Sri Panchanan Pradhan
13. Sri Gopal Ch.Mohanty
14. Sri Sarat Ch.Mahari
15. Sri Pitabas Pani
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 Amarkant Rai 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 laboures 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.

(DR.MRUTYUNJAY SARANGI)
MEMBER(A)

BKS

