

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 040/00172/2015

Date of Order: This, the 16th day of January 2019

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER

THE HON'BLE MR. N. NEIHSIAL, ADMINISTRATIVE MEMBER

Shri Bir Bahadur Lohar
Son of Shri Nar Bahadur Lohar
Village and Post Office – Laluk
District North Lakhimpur, Assam.

...Applicant

By Advocate: Mr. N. Dhar

-Versus-

1. The Union of India
Represented by the Secretary
To the Govt. of India, Ministry of Home Affairs
New Delhi – 110001.
2. The Director
Intelligence Bureau, Ministry of Home Affairs
Govt. of India, New Delhi – 110001.
3. The Joint Director
Subsidiary Intelligence Bureau
Ministry of Home Affairs, Govt. of India
Hengrabari P.O. Guwahati – 781006.
4. The Joint Deputy Director
Subsidiary Intelligence Bureau
Ministry of Home Affairs, Govt. of India
P.O. Itanagar – 79111, Arunachal Pradesh.

...Respondents

By Advocate: Mr. S.K. Ghosh on behalf of Mr. R. Hazarika,
Addl. CGSC

ORDER (ORAL)**MANJULA DAS, JUDICIAL MEMBER:**

By this O.A., applicant makes a prayer for a direction upon the respondent authorities to reinstate him in service with all service benefits.

2. Mr. N. Dhar, learned counsel appearing on behalf of the applicant submits that applicant was engaged as contingency worker i.e. Cook under the respondent department w.e.f. 01.01.1996. According to Mr. Dhar, applicant rendered his services for long 18 years. However, suddenly on 30.06.2014, applicant was verbally informed that the service of the applicant has been terminated. Immediately, applicant made a representation before the respondent authority. However, the same has not yet been attended to.

3. Mr. Dhar further submitted that being served for more than 18 years, applicant has the legitimate right for claiming for reinstatement in service and for consequential benefits, meaning thereby, for regularization of service. However, the respondent authority, has not yet taken any action in the matter.

4. Ms. G. Sutradhar, learned Addl. CGSC who was leading this case, is not present today. As the matter relates to 2015 and as the Central Administrative Tribunal is set up for speedy disposal of the matter, in view of that, we have taken up the matter today in presence of another Addl. CGSC Mr. S.K. Ghosh by taking into account the statements made by the respondents in their written statement. Learned counsel for both parties agreed to that they have no objection if a direction be issued to the respondents to consider the case of the applicant as per ratio laid down by the Hon'ble Supreme Court in the case of **Secretary, State of Karnataka and Ors. Vs. Uma Devi and Ors. (2006) 4 SCC 1 at para 53, page 42.**

5. In view of the above, we direct the respondents to consider the case of the applicant as per ratio laid down by the Hon'ble Apex Court rendered in the case of **Uma Devi (supra) at para 53, page 42** where it was held as under:

“53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in *S.V. Narayanappa, R.N. Nanjundappa and B.N. Nagarajan* and referred to in para 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 the courts or of tribunals. The question of regularisation 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 abovereferred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularise 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 the 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 regularisation, if any already made, but not sub judice, need not be reopened based on this judgment, but there should be no further bypassing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme."

5. Respondents are further directed to complete the entire proceeding at early but not later than three months from the date of receipt copy of this order.
6. O.A. stands disposed of accordingly. No order as to costs.

(N. NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)