

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH**

...

**Original Application No. 144/2005**

Reserved on : 19.02.2019

Pronounced on : 28.02. 2019

**CORAM:**

**HON'BLE MRS. HINA P.SHAH, MEMBER (J)**

**HON'BLE MS. ARCHANA NIGAM, MEMBER (A)**

1. Sumer Lal Chauhan s/o Sh. Jagdish Chandra Chauhan, aged about 33 years, R/o Vaishnav Colony, Channa Bhakhar, Jodhpur.
2. Laxmi Narain s/o Sh. Dhagla Ram Ji, aged about 31 years, C/o Jethu Singh, Indira Colony, Rama-Ki-Pyau, Mandore Road, Jodhpur.
3. Manohar Singh S/o Sh. Moti Singh Rathore, aged about 32 years, C/o Chatar Singh Parihar, Infront of Custom Office, Air Port Road, Jodhpur.
4. Jethu Singh S/o Sh. Ghanshyam Singh, aged about 31 years, R/o Indira Colony, Rama-Ki-Pyau, Mandore Road, Jodhpur.

All applicants are at present working under the respondent No.3 on the post of Group 'D' employee.

...Applicants

(By Advocate: Ms. Nupur Bhati)

Versus

1. The Union of India through the Secretary, Ministry of Finance, Department of Revenue, Government of India, North Block, New Delhi.
2. The Commissioner of Customs, Customs Department, N.C.R. Building, Statue Circle, Jaipur
3. The Assistant Commissioner, Central Excise and Customs Department, Kuchaman House, Air Port Road, Ratanada, Jodhpur.

4. The Administrative Officer, Central Excise & Customs Department, Kuchaman House, Air Port Road, Ratanada, Jodhpur.

...Respondents

(By Advocate: Shri K.S.Yadav)

### **ORDER**

#### **Per Mrs. Hina P.Shah, M(J)**

The applicants earlier filed the present OA u/s 19 of the Administrative Tribunals Act, 1985 praying for regularisation of their services on Group-D posts from the date of their joining with all consequential benefits. They have also prayed for setting aside the tender notice dated 18.05.2005 (Ann.A/1) and pay them equal pay for equal work.

2. This Tribunal vide order dated 22.02.2006 finally decided the matter while observing in Para-6 as under:-

"6. In my considered view, this submission of the learned counsel for the applicants has no merit since the cut off date mentioned in the circular i.e. 07.06.88, is based on policy decision of the Government of India and it covers only those casual workers cases who were recruited prior to 07.06.88 and had continued even on 08.04.91, were entitled to be regularized. This cut off date had been prescribed in order to put an end to back door recruitment. Admittedly, the applicants were not in service on or before 07.06.88 and the said circular cannot be invoked by the applicants. Hence this O.A. has no merits. Further this Tribunal cannot direct the authorities to regularize the service of the applicant, which would tantamount to encouraging back door entries in Government service. Accordingly it is dismissed. The interim order stands vacated. No costs."

3. Thereafter, aggrieved of the order of this Tribunal, the applicants approached the Hon'ble Rajasthan High Court at Jodhpur by way of filing D.B.Civil Writ Petition No.1298/2006. Vide order dated 5.10.2017, the Hon'ble High Court restored the present OA before this Tribunal with the following observations:-

"1. Case of the petitioner before the Central Administrative Tribunal was premised essentially on a policy decision notified vide OM dated 10.09.1993. We find that Tribunal has not decided the issue in light of the said OM dated 10.09.1993. As per petitioners, they were eligible for being considered for regularization in terms of the OM dated 10.09.1993.

2. With consent of parties we dispose of the writ petition setting aside the impugned order dated 22.02.2006. We restored OA No.144/2005 before the Tribunal.

3. Needless to state that while deciding the issue the Tribunal shall also decide the controversy whether petitioners were part time daily wager or temporary status was acquired by them."

4. In view of above, now this Tribunal is required to deal with the matter only on the question whether on the basis of OM dated 10.09.1993 the applicants are entitled for regularisation and also the controversy with regard to status of the applicants as part-time daily wager or temporary status holder.

5. We have heard the learned counsel for the parties and have gone through the material on record.

6. It is the contention of the applicants that they are working for full time i.e. for 8 hours a day, as can be

verified from Ann.A/4 of additional affidavit, which clearly shows that the applicants were working for full 8 hours a day on all working days of the month and were given wages accordingly. Pertaining to the submission of temporary status, the applicants stated that it is clear from Ann.A/4 that vide the departmental noting dated 10.03.2003 their names were recommended for permanent appointment, which further infers that they were having temporary status. However, the department has not issued any order of temporary status. The applicants have also relied upon the order dated 17.7.2000 passed in OA No.428/1996-Gopal Lal Panwar vs. Union of India, by the Jaipur Bench of this Tribunal wherein this Tribunal was satisfied that the applicant was entitled to the benefit of 1993 Scheme of the Government of India. It was observed in the said order that it is immaterial that the applicant was not initially appointed through Employment Exchange. Accordingly, it has directed the respondents to take back the applicant and consider him in accordance with 1993 Scheme of Government of India for grant of temporary status subject to further conditions and eligibility and also for regularisation in course of time.

7. Per contra, the learned counsel for the respondents controverted the contentions made by the learned counsel for the applicants.

8. We have considered the respective contentions of the parties.

9. On going through the additional affidavit, particularly the official correspondence of the respondents, it is evident that the respondents have proceeded in the matter positively. Ann.A/4 of the additional affidavit makes it clear that the applicants have been continuously working since the date of their appointment i.e. from 1.1.1992. It is also clear from Ann.A/4 that the applicants were working for 8 hours a day regularly and they were being paid wages accordingly. From this, it can also be inferred that on the date of issue of the OM dated 10.9.1993, the applicants have rendered continuous service of one year. Further, the applicants were recommended for giving permanent appointment infers that they were granted temporary status, but no such formal orders were given to the applicants. It is also noted that guidelines for recruitment of persons on daily-wage basis issued vide OM dated 7.6.88 were further reviewed in the light of the judgment of the CAT, Principal Bench, New Delhi delivered on 16.2.1990 and

the Scheme called – Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993 – came into force w.e.f. 1.9.1993. According to this Scheme, temporary status was to be conferred on all casual labourers who were in employment on the date of issue of the OM and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week). Therefore, it is clear that the applicants were entitled to temporary status, according to the said Scheme which came into effect w.e.f. 1.9.1993. But in spite of this, the Department has neither issued any formal order giving them temporary status nor any order for regularisation of their services.

10. In these facts and circumstances of the case, the respondents have to issue formal order of granting them temporary status as per the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993 and thereafter consider them for grant of regularisation according to the provisions as per their eligibility. Ordered accordingly. The applicants are also entitled for consequential benefits. This exercise shall be

completed within a period of three months from the date of receipt of a copy of the order.

11. The OA stands disposed of in above terms with no order as to costs.

**(ARCHANA NIGAM)**  
**ADMV. MEMBER**

**(HINA P.SHAH)**  
**JUDL. MEMBER**

R/