

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

ORIGINAL APPLICATION NO.062/00180/2019

Chandigarh, this the 26th day of February, 2019

CORAM:HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

...

1. Manzoor Ahmed Sheikh s/o Sh. Gulam Mohd. Sheikh, aged 38 years, working as Sweeper.
2. Reyaz Ahmad Ganie, aged 33 years, son of Sh. Ab. Hamid Ganai, working as Frash.
3. Mukhtar Adhmad Bhat, aged 47 years, son of Sh. Abdul Rehman Bhat, working as Frash.
4. Ab. Majid Bhat, aged 43 years, son of Sh. Assadullah Bhat, working as Frash.
5. Gh. Rasool Qazi, aged 33 years, son of Sh. Ab. Ahad Qazi, working as Frash.
6. Ab. Salam Ganai, aged 52 years, son of Sh. Gh. Ahmad Ganai, working as Frash.
7. Mohd. Ismail Sofi, aged 39 years, son of Sh. Gh. Ahmad Sofi, working as Frash.
8. Imtiyaz Ahmad Wani, aged 37 years, son of Sh. Gh. Nabi Wani, working as Frash.
9. Altaf Hussain Magrey, aged 41 years, son of Sh. Mohd Ibrahim Magrey.
10. Kishor Kumar, aged 31 years, son of Sh. Kaka Ram, working as Frash.
11. Ashwani Kumar, aged 31 years, son of Sh. Madan Lal, working as Frash.
12. Kali Dass, aged 39 years, son of Sh. Kharati Lal, working as Frash.
13. Arvind Kumar, aged 51 years, son of Late Sh. Rajinder Sharma, working as Frash.
14. Pawan Kumar, aged 52 years, son of Sh. Ram Krishan, working as Frash.
15. Rabans Lal, aged 51 years, son of Sh. Gullu Ram, working as Mali.

16. Tarsem Lal, aged 33 years, son of Sh. Kaka Ram, working as Frash.
17. Tony, aged 36 years, son of Sh. Roshan Lal, working as Sweeper.
18. Santosh Kumar, aged 42 years, son of Late Sh. Ram Krishan, working as Frash.
19. Sohan Lal, aged 44 years, son of Sh. Chajju Ram, working as Frash.
20. Rakesh Kumar, aged 39 years, son of Sh. Rattan Lal, working as Frash.
21. Pritam Lal, aged 43 years, son of Sh. Sansar Chand, working as Frash.
22. Vinod Kumar, aged 31 years, son of Sh. Satpal Sharma, working as Frash.
23. Kewal Krishan, aged 36 years, son of Sh. Bindra Ban, working as Frash.
24. Narayan Dass, aged 39 years, son of Sh. Munish Ram, working as Frash.
25. Uttam Chand, aged 45 years, son of Late Sh. Mohinder Paul, working as Frash.
26. Sunil Kumar, aged 46 years, son of Sh. Kirpal Chand, working as Frash.
27. Susheel Kumar, aged 39 years, son of Sh. Surinder Mohan, working as Frash.
28. Balwinder Raj, aged 43 years, son of Sh. Sardari Lal, working as Frash.
29. Sandeep Singh Bali, aged 36 years, son of Sh. Paramjit Singh Bali, working as Frash.
30. Shabir Ahmad Sheikh, aged 39 years, son of Sh. , working as Frash.
31. Nazir Ahmad Sheikh, aged 36 years, son of Sh. Sanaullah Sheikh, working as Frash.
32. Rinchin Palgais s/o Sh. Namgal Tesering, aged 32 years, working as Frash.
33. Tsering Phunchuk, aged 43 years, son of Sh. , working as Frash.
34. Tersing Gurmet, aged 48 years, son of Sh. , working as Frash.

All are Casual Labourers, (Frash, Sweeper, Mali) working at Jammu and Srinagar in the Customs and Central Excise Commissionerate, Hqrs. At Jammu-180001.

....APPLICANTS

(Present: Mr. D.R. Sharma, Advocate)

VERSUS

1. Union of India through the Secretary, M/o Finance, Department of Revenue, North Block, New Delhi-110001.
2. Chief Commissioners, Central Goods and Services Tax, Commissionerate, Jammu (J&K) 180001.
3. Assistant Commissioner (Establishment), Customs Preventive Division, Jammu (J&K) 180001.
4. Assistant Commissioner, Central Goods and Services Tax, Division, Srinagar (J&K) 192001.

....RESPONDENTS

(Present: Mr. Sanjay Goyal, Advocate)

ORDER (Oral)

SANJEEV KAUSHIK, MEMBER (J)

1. Heard.
2. MA No. 062/00380/2019 is allowed and the applicants are allowed to join together to file this single O.A.
3. The present O.A. has been filed by the applicants seeking regularization of their services.
4. Learned counsel submitted that the applicants were engaged as Frash/Sweeper/Mali on daily wage basis between the period 1995 to 2007. They earlier approached this Tribunal seeking the benefit of order passed by this Court in the case of **Shri Kiran Pal and Others Vs. Union of India & Others** (O.A. No. 800/CH/2001 decided on 14.08.2002), affirmed up to the Hon'ble Supreme Court, by filing O.A. Nos. 103/JK/2007, 105/JK/2007 and 605/JK/2012. The two OAs Nos. 103/JK/2007 and 105/JK/2007 were disposed of by a common order dated 29.08.2007 with a direction to the respondents to allow them to

continue in their jobs till their services are required, if their work and conduct is found to be satisfactory. It was also directed that the claim of the applicants for regularization shall be considered as per the decision of the Hon'ble Supreme Court in the case of Kiran Pal (supra). O.A. No. 605/JK/2011, filed by some of the applicants, was disposed of on 13.04.2012 with a direction to the respondents to grant them the benefit of judgment in the case of Kiran Pal (supra) (Annexure A-3/A). It is also submitted that in terms of orders passed by this Court in such like cases, the Govt. of India issued instructions dated 07.06.1988, 08.04.2011 and 06.02.2013, and in terms thereof, the applicants in those cases were treated as direct employees and were paid the minimum of the pay scale of Group D post. The respondents against the order of this Court filed SWP No. 703/2013 and 675/2013, 725/2011 which were disposed of vide a common order dated 11.12.2013(Annexure A-4) by the Hon'ble High Court of J & K. Dissatisfied with that order, the respondents went in SLP (C) No. 1772/2015, which was also dismissed, vide order dated 10.03.2017 (Annexure A-5).

5. Learned counsel has also drawn our attention to a decision dated 25.02.2014 passed by the Hyderabad Bench of the Tribunal in O.A. NO. 800/2012 titled **P. Thirupathaiah and Others Vs. Union of India & Others**, which stands implemented qua the applicants therein, who are similarly situated like the applicants herein.

6. Learned counsel submitted that based on various judicial pronouncements and Govt. instructions in their favour, the applicants submitted representations in the year 2013/2014/2016 (Annexure A-1 colly), but the same have not been considered till date. He submitted that despite there being judicial pronouncement in the case of

Secretary State of Karnataka Vs. Uma Devi and Others (Civil Appeal No. 3595-3612/1999 decided on 10.04.2006) and thereafter issuance of OM dated 11.12.2006 by the DOP&T, wherein it has been impressed upon that the cases of the irregularly appointed persons, who have been working against the sanctioned posts for last 10 years and are qualified in terms of the Recruitment Rules, be considered for regularization, as one time measure, the applicants' case for regularization has not been considered. He has also taken us through another OM dated 29.01.2015 wherein the Govt. of India has allowed benefit of relaxation in age and qualification to the temporary status employees while considering their cases for regularization.

7. Learned counsel made a statement at the bar that the applicants would be satisfied if a direction is issued to the respondents to consider and decide their representation in accordance with the law laid down in the relied upon cases and Govt. instructions issued thereafter.

8. Notice.

9. At this stage, Mr. Sanjay Goyal, Sr. CGSC, who is in receipt of advance copy of O.A., appears and accepts notice. He does not object to the disposal of the O.A. in the above terms. He, however, requests for grant of sufficient time to consider and decide the claim of the applicants in the light of relied upon cases and instructions issued by the Govt. of India.

10. In the wake of above, the O.A. is disposed of, in limine, with a direction to the competent authority amongst the respondents to take a call on the indicated representations (Annexure A-1) of the applicants and decide the same by passing a reasoned and speaking order within a period of two months from the date of receipt of a copy

of this order. While considering the claim, the respondents shall take into consideration the law laid down in the relied upon cases and the OMs issued by the Govt. of India in the relevant behalf. A copy of the order so passed by the respondents shall be communicated to the applicants.

11. Needless to mention, the disposal of the O.A. shall not be construed as an expression of any opinion on the merit of the case.

No costs.

(SANJEEV KAUSHIK)

MEMBER (J)

Dated: 26.02.2019

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