

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 045/00322/2016

Date of Order: This, the 15th day of February 2019

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER

THE HON'BLE MR. NEKKHOMANG NEHSIAL, ADMINISTRATIVE MEMBER

Sri Moti Lal Das alias Manju
S/o Sri Chandra Mani Das
Cook
C/O – The office of the
Accountant General
Arunachal Pradesh, Pin – 791111.

...Applicant

By Advocates: Mr. M. Chanda, Mrs. U. Dutta & Mr. A.K. Das

-Versus-

1. The Union of India
Represented by the Comptroller and
Auditor General of India
10, Bhadur Shah Jafar Marg
New Delhi, Pin – 110124.
2. Principal Director (Staff)
C/o Comptroller and Auditor General of India
9, Deen Dayal Upadhyaya Marg, New Delhi – 110124.
3. Asstt. Comptroller & Auditor General (N)
9, Deen Dayal Upadhyaya Marg
New Delhi – 110124.
4. Accountant General
Arunachal Pradesh, Itanagar – 791111.
5. The Sr. Deputy Accountant General (Admn)
C/o – Office of the Principal Accountant
General (Audit), Assam, Meghalaya
Nagaland, etc. Shillong – 793001.

... Respondents

By Advocate: Mr. R. Hazarika, Addl. CGSC

O R D E R (O R A L)

MANJULA DAS, MEMBER (J):

By this O.A., applicant makes a prayer for setting aside the impugned order dated 12.05.2015 passed by the Dy. Accountant General (Admn) and to regularize him on priority basis being his case absolutely covered by the decision rendered in **State of Karnataka Vs. Umadevi (3) (2006) 4 SCC 1** and being similarly situated with the applicants in O.A. Nos. 406, 584 and 585 of 2007.

2. Mr. M. Chanda, learned counsel appearing on behalf of the applicant submitted that applicant is presently serving as Cook/Helper under the respondent authority. Learned counsel further submitted that earlier applicant approached this Tribunal by filing O.A. No. 040/00402/2014 where this Tribunal by order dated 09.12.2014 directed the respondent authority to dispose of the representation made by the applicant keeping in view the para 53 of **State of Karnataka Vs. Umadevi (3) (2006) 4 SCC 1** and **State of Karnataka and Ors. Vs. M.L. Kesari and Ors. (2010) 9 SCC 247** within a period of three months from the date of receipt of a copy of the order.

3. Learned counsel further submitted that thereafter, speaking order dated 12.05.2015 was passed by the respondent authority which is impugned herein by which respondent authority

counted the service of the applicant from 2008 inasmuch as after bifurcation of the erstwhile office of the PAG (Audit), applicant joined at Arunachal Pradesh, Itanagar in 2008. As such, speaking order is not in view of spirit and direction of this Tribunal. Moreover, applicant has already completed 16 years of service as Cook/Helper and as per **Uma Devi (supra)**, applicant is entitled to get regularization. According to learned counsel, by now, applicant is 46 years of age and already his age is over for any Govt. job. As such, his service shall be regularized. Thus, the impugned speaking order is not sustainable under the law.

4. On the other hand, Mr. R. Hazarika, learned Addl. CGSC appearing on behalf of the respondents submitted that applicant was engaged as a casual worker from 1993 to 2008 intermittently in the office of the Pr. Accountant General, Meghalaya, Shillong as per a certificate issued by Establishment Officer of that office on 23.02.2012. As per certificate dated 27.06.2007 and 07.11.2008 issued by Sr. Deputy Accountant General & Establishment Officer, Office of the PAG (Audit), Meghalaya, Shillong, the applicant worked as casual employee and Domestic Helper in the Office of the PAG (Audit), Meghalaya, Shillong. According to Mr. Hazarika, applicant was also engaged as Outsourced helper from January, 2009 in the office of AG, AP, Itanagar from the outsourcing agency, M/s Suraksha which started providing their personnel from 27.08.2008.

Thereafter, the applicant continued to work as outsourced helpers under an outsourced agency, M/s Pooja Star Enterprises from 01.04.2012 till the agreement expired on 31.03.2015.

5. Mr. Hazarika further submitted that after trifurcation, office of the AG, AP started functioning in Itanagar from June, 2008 completely independent of Principal Accountant General (Audit), Meghalaya, Shillong in all matter of administration. As far as office of AG, AP, Itanagar was concerned, the applicant was an outsourced employee of an Outsourcing Agency, M/s Suraksha, Vijaynagar. Hence, the applicant shall not be deemed to be an employee of the department and has no right to claim any Salary/Allowances/Compensation/Damages or claim for any employment/absorption inasmuch as applicant provided services to this office only as an outsourced employee and not a casual worker. In view of that, applicant's case is not covered under the judgment of **Uma Devi (supra)**.

6. We have heard the rival parties, perused the pleadings and all the materials and precedents relied upon. By the instant O.A., the applicant is claiming for regularization in any post of MTS under the respondent department by virtue of completion of 21 years of service since 1993. It is noted that at the time of filing this O.A., applicant has attained the age of 46 years and by now 48

years of old. The applicant has been claiming that his case is squarely covered by the decision rendered by the Hon'ble Apex Court in the case of **Uma Devi (supra)** whereas the respondents objected that the applicant was engaged under the respondent authority through outsourcing agencies. However, he is still continuing under the respondent department.

7. Keeping in view of the above and without going into detail of the case, we deem fit and proper to issue a direction upon the respondents to allow the applicant to participate for regularization of his services by relaxing his age limit and till his participation, he shall not be disturbed. Ordered accordingly.

8. With the above directions, O.A. stands disposed of accordingly. No order as to costs.

(NEKKHOMANG NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)