

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.**

OA No.271/2019

This the 08th day of August, 2019

1. Mr. Nanubhai Vasava
Son of Mansinghbhai Vasava
Age about 59 years
Central Cattle Breeding Farm
Po. Dhamrod,
Taluka : Mangrol,
District : Surat- 394 125.
2. Smt. Somilben Vasava
Wife of Nanubhai Vasava
Age about 57 years
Central Cattle Breeding Farm
Po. Dhamrod,
Taluka : Mangrol,
District : Surat- 394 125. **Applicants**

(By Advocate : Shri P.H.Pathak)

VERSUS

1. Union of India,
Notice to be served through
The Secretary, Government of India
Ministry of Agriculture,
Department of A.H.Dairying and Fishing
Krishibhavan, New Delhi 110 001.
2. The Director
Department of A.H.Dairying and Fishing
Central Cattle Breeding Farm
Po. Dhamrod,

CAT, Ahmedabad Bench

Taluka : Mangrol,

District : Surat- 394 125. Respondents.

ORDER (ORAL)

Per : Hon'ble Shri M.C.Verma, Judicial Member

Instant OA has been preferred by the applicants, with MA for Joint Application and it has been prayed that respondents be directed to regularise the services of the applicants and to grant all consequential benefits to them.

2. The brief facts, as has been set out in the OA precisely are that applicant at Sl. No.1 of the OA was appointed as Casual Labour on 01.01.1979 and applicant at Sl. No.2 was appointed as Casual Labour on 18.11.1981. That both applicants were illegally terminated in the year 1989, they approached the Labour Court, by way of reference, and Labour Court directed the respondents to reinstate the applicants with 50% of backwages and continuity in service. That when award of the Labour Court was not implemented, MA for initiation of contempt proceedings, being MCA No.2133/2010 was filed, and any how, on 19.3.2011 the applicants were reinstated in services.

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That when applicants were not granted Temporary Status, they filed OA No.456/2012 and this Tribunal allowed the OA and directed the respondents to pay all consequential benefits thereon and applicants then were granted temporary status. That even after grant of temporary status, they were not regularized nor paid salary equivalent to the co-employees who were regularized. That Advocate's notice dated 11.7.2017 was sent to the respondents but there is no response and hence is this OA.

3. The prayer made in the OA is as under :

“(A) The Hon’ble Tribunal be pleased to direct the respondents to regularize the services of the applicants as per Supreme Court Judgment and grant all consequential benefits available to Class-IV employees.

(B) Be pleased to declare that payment of different wages to the similarly situated employees, on ground of casual labour, casual labour with temporary status and regularmazdoor as discriminatory violative Articles 14, 16 & 21 of the Constitution of India and direct the respondents to pay to regular employees as per Judgment of Hon’ble Supreme Court and further direct to pay arrears of amount with 12 % interest.

(C) Be pleased to direct the respondents to absorb the applicants from restrospective date and further direct to grant pensioner and other consequential benefits to the applicants from on retirement service.

(D) Any other relief which this Hon’ble Tribunal deems fit and proper in the interest of justice may be granted together with cost.”

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4. During arguments, learned counsel having placed reliance on Office Memorandum No.49014/3/2014-Estt.(C) dated 16.10.2014 (Annexure A-4) and urged that applicants deserve regularisation. He also referred the pleadings and annexee documents of OA.

5. Considered the submissions and perused the record. The para 4 of the said OM reads :

“Department of Expenditure have now advised this Department that in order to avoid piece-meal examination of such proposals, a consolidated proposal for regularization of all such remaining CL-TS who were on the rolls of the Ministries/Departments on 10.09.1993 and yet could not be regularized may be forwarded to them for further consideration/examination. Therefore, all Ministries/Departments are requested to review the position at their establishments and send a consolidated proposals for regularization of services of such remaining CL-TS on their rolls (including attached/subordinate and autonomous bodies), if any, latest by 30.11.2014 to this Department in the enclosed format. It may be ensured that complete information in respect of the Ministry/Department and its Attached/Subordinate Offices is sent.”

6. Order passed in OA No. 456/2012, has been annexed as Annexure A-2 and it reveals that in said OA in addition to the prayer to direct to grant of Temporary Status, prayer was also for

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regularisation of these applicants but said prayer of regularisation was turned down by the Tribunal observing that the applicant while claiming the benefit of temporary status under the Scheme are bound by all the clauses in the said schemes. Sub Clause (iv) of Clause 4 does not specifically exclude the right for bringing them into permanent establishment, unless they are selected through regular selection process for Group 'D' posts and therefore, the Tribunal declared that applicants are not entitled to be brought into permanent establishment unless they are selected through selection process for Group-D posts. Paras 14 & 15 of the Order of the Tribunal passed in OA No.456/2012 throw light on this aspect and for the sake of brevity, said paras are reproduced herein below :

“14. Coming to the next prayer of the applicants for a direction for regularisation on par with juniors, we may observe that the applicants while placing reliance upon the said Scheme for grant of temporary status failed to appreciate clause 4(ii) and clause 4(iv) of the said Scheme 1993 vide Annexure A/9 which is as under: “4. Temporary Status

(i).....

(ii) Such conferment of temporary status would be without reference to the creation/availability of regular Group D posts.

(iii)

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(iv) Such casual labourers who acquire temporary status will not however, be brought to the permanent establishment unless they are selected through regular selection process for Group - D post.

15. In view of the above, we may further observe the applicants while claiming the benefit of temporary status under the Scheme are bound by all the clauses in the said Scheme. Sub clause (iv) of Clause 4 does not specifically exclude the right for bringing them into the permanent establishment, unless they are selected through regular selection process for Group D posts. Therefore, we declare that the applicants are not entitled to be brought into the permanent establishment unless they are selected through selection process for Group D posts “

7. Having gone through the Order of the Tribunal passed in OA No.456/2012, which is at Annxure A-2, I feel that instant OA in present form is not maintainable. Before knocking at the door of the Tribunal, the applicant ought to have put their case before the Respondent Authority as to how the situation have changed after the Order passed in OA No.456/2012 and how they are entitled for regularisation but on record, there is only copy of Advocate's notice dated 11.7.2017. Most of the averment in said notice is ornamental one. No reply of this notice, as has been asserted by applicant, was given by the respondents.

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8. Taking note of entirety, the OA needs disposal with direction. Applicants, if wish and think that they deserve regularisation even after Order passed in OA No. 456/2012, they may give a comprehensive representation to the respondents within one month, to be counted from today, and if such representation is given the respondents shall take decision thereon, within two months from the date of receipt of the representation and in case no representation is received within stipulated time, Advocate's notice dated 11.7.2017 (Annexure A-5) shall be treated as representation of applicants and appropriate detailed speaking order within a period of two months, to be counted after expiry of one month given for fresh representation, shall be passed by the respondents.

(M.C.Verma)
Member (J)

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