

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHANDIGARH BENCH**

...

**O.A. No.60/1247/2017**

**Date of decision: 11.09.2019**

...

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

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Ganesh Lal aged 47 years, S/o Sh. Anand Lal, Contingent Worker, office of Commissioner of Income Tax (Appeals), Jalandhar (Group D).

**...APPLICANT**

**VERSUS**

1. Union of India through the Secretary, Ministry of Finance (Revenue), Govt. of India, Room Nos.128-A, 128-B, North Block, New Delhi.
2. Principal Chief Commissioner of Income Tax (CCA), North West Region, Sector-17 E, Chandigarh.
3. Principal Chief Commissioner of Income Tax, Ludhiana.
4. Commissioner of Income Tax (Appeals), Jalandhar..

**...RESPONDENTS**

**PRESENT:** Sh. Vivek Sethi, counsel for the applicant.  
Sh. K. K. Thakur, counsel for the respondents.

**ORDER (Oral)**

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**SANJEEV KAUSHIK, MEMBER (J):-**

1. Present O.A. has been filed by the applicant seeking issuance of a direction to the respondents to regularize his services as he is working with respondent department for the last more than 22 years. Further prayer is to set aside order dated 12.07.2017 (Annexure A-9/A), whereby his claim for regularization has been rejected.
2. Facts which led to filing of this O.A. are not in dispute.
3. Applicant Sh. Ganesh Lal, entered into service with the respondent department as Waterman (Contingent Worker) on 12.09.1995. Later on, he joined as daily wager in the office of respondent No.4. Vide communication dated 7.1.2010 issued by Deputy Commissioner of

Income Tax, Chandigarh list of 175 casual workers was published, who had completed 10 years of service as on 10.04.1999 where name of the applicant stood at sr. no.158. Out of 175 casual workers, 144 were regularized by respondent no.2. Applicant submitted representation dated 13.9.2011 (Annexure A-5) to respondent no.2 to consider his case also in terms of law laid down in the case of **State of Karnataka & Ors. vs. Uma Devi & Ors.**, 2006 (4) SCC 1 which was forwarded to competent authority. When applicant did not get benefit, then he filed another representation dated 26.03.2014 (Annexure A-7), on which also no order was passed. Ultimately, vide impugned order dated 12.07.2017, his claim has been turned down against which applicant is before this Court.

4. Applicant has taken various ground for invalidation of the impugned order.
5. Learned counsel for the applicant vehemently argued that case of the applicant is squarely covered by decision dated 21.11.2016 in the case of **Dharminder Kumar Vs. UOI & Ors.**, which was affirmed by the Hon'ble High Court in judicial review at the hand of Union of India in CWP No.2183 of 2017, which was dismissed on 06.02.2017. Thus, he submitted that the impugned order be set aside and a direction be issued to the respondents to consider his case from the date when he completed ten years of service.
6. Respondents have filed written statement and have contested claim of the applicant.
7. Sh. K. K. Thakur, learned counsel for the respondents submitted that since there were only 144 vacancies and they had considered senior most persons eligible for regularization in which applicant stood at

serial no.158, which is beyond number of vacancies available at that time, therefore, his case was not approved. He did not dispute that the judgment relied upon by the applicant has been affirmed by the Hon'ble High court.

8. I have given my thoughtful consideration to the entire matter.
9. It is not in dispute that list, which respondents had circulated, contained names of 175 casual workers where name of the applicant stood at serial no.158 and respondents have regularized 144 employees as per their seniority. Since applicant was at serial no.158, therefore, his name could not be considered and approved due to lack of vacancies. This fact leads to only one conclusion that respondents have recognized service of the applicant but could not consider his claim for regularization due to non-availability of vacancies. There is no denial of the fact that order of this Court in the case of Dharminder Kumar (supra) was also considered by the respondents while regularizing the services of employee. Thus, I am left with no other option but to issue direction to the respondents to consider the case of the applicant for regularization as and when vacancy arise.
10. The O.A. stands disposed of in the above terms.

**(SANJEEV KAUSHIK)**  
**MEMBER (J)**

Date: 11.09.2019.  
Place: Chandigarh.

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