

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

**Original Application No.20/55/2019
With
Original Application No.20/1029/2017**

Date of Order: 12.07.2019

Between:

O.A.No.55/2019:

K. Demudu, S/o Atchanna - Group C
Aged about 65 years, R/o D.No.36-99-128
Ramji Estate, Kanchlapalem
Visakhapatnam District. Applicant

AND

1. The Union of India
Rep. by its Secretary
Ministry of Defence, Govt. of India
South Block, New Delhi – 110 011.

2. The Chief of the Naval Staff
Integrated Headquarters of Ministry of Defence (Navy)
Sena Bhavan South Block, New Delhi – 110 011.

3. The Flag Officer Commanding-in-Chief
Eastern Naval Command Headquarters
Visakhapatnam.

4. The Admiral Superintendent,
Naval Dockyard, Visakhapatnam.

5. The Principal Controller of Defence Accounts (Pensions)
Draupadi Ghat, Allahabad. .. Respondents

O.A.No.1029/2017:

K. Annapoorna, W/o Late K. Tatarao
Aged about 60 years, resident of H.No.19-14/1
Chandranagar, Near Saibaba Temple
Gopalapatnam (Rural), Gopalapatnam
Visakhapatnam District. ... Applicant

AND

1. The Union of India
Rep. by its Secretary

Ministry of Defence, Govt. of India
South Block, New Delhi – 110 011.

2. The Chief of the Naval Staff
Integrated Headquarters of Ministry of Defence (Navy)
Sena Bhavan South Block, New Delhi – 110 011.
3. The Flag Officer Commanding-in-Chief
Eastern Naval Command Headquarters
Visakhapatnam. Respondents

Counsel for the Applicant Mr. M. Karthik Pavan Kumar.
Counsel for the Respondents Mr. M. Venkataswamy, CGSC in OA 1029/2017 proxy of Mrs. B. Gayatri Varma, Sr. PC for CG in OA 55/2019

CORAM:

Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

ORAL ORDER (Common)

Since the facts and question of law involved in these two OAs, are same, they are being disposed of by this common order.

2. For the sake of convenience, Tribunal has taken the facts of OA No.55/2019 to adjudicate upon the issue. The Original Application has been filed for not regularising the services of the applicant, who are working as Casual Labour in the respondents organization.
3. Brief facts of the case are that the respondents recruited 215 Casual Labours through Employment Exchange during the year 1982-83. Out of the said 215 Casual Labourers, except 54, all the others were granted temporary status. Applicant is one among the 54, who has been left out and not granted temporary status. To seek temporary status, some Casual Labourers along with the applicant, approached this Tribunal in OA No.973/2002, wherein, it was directed to grant relief sought. Same was challenged in Hon'ble High Court in Writ Petition No.2135/2003 but it was

dismissed. Accordingly, the applicant along with others, were granted temporary status w.e.f. 06.04.2005. Thereafter, when the services of the applicant were not regularised, he along with similarly placed other employees filed OA No.136/2011, wherein it was directed to dispose of representations made by the applicants in the said OA. Despite such direction, there being inaction on behalf of the respondents, another OA No.1136/2014 was filed, wherein it was directed that the applicants be regularized on par with the applicants in OA No.1342/2011. Pursuant to the aforesaid order, services of the employees, who are similarly situated to the applicant, were regularised w.e.f. 06.04.2005 by the respondents, vide their letter dated 18.05.2015. Unfortunately, the case of the applicant was not considered. The applicant made representations on 22.06.2016 and 05.08.2016, 20.07.2017 and followed it up by several other representations, requesting to regularise his services. The latest representation is dated 05.08.2016, which was acknowledged by the respondents on 30.08.2016. Besides, the employees, who have been granted temporary status under DoPT's OM dated 10.09.1993, were permitted to continue under the old pension scheme based on judicial orders received by the respondents. Further, Respondents have also issued OM dated 26.02.2016 and 28.07.2016 clarifying that the benefits of old pension scheme will be extended to all Casual Labourers, who have been granted temporary status vide OM dated 10.09.1993 even if they have been regularised on or after 01.01.2004. The applicant, citing the above referred OM, made representations dated 22.06.2016 and 05.08.2016, requesting that he be extended the benefits of the old pension scheme. Till date, there is no response from the respondents. Aggrieved

that the respondents are not regularising his services and also for not extending the old pension scheme, the applicant filed the present OA.

4. The contentions of the applicant are that he is similarly situated employee like others, who were considered and granted regularisation of services by the respondents in OA No.1136/2014. Besides, even for extension of the old pension scheme to the applicant, he is also similarly situated like all others applicants in OA No.1136/2014. Further, as per OMs dated 28.07.2016 and 26.02.2016, he is eligible for being extended the benefit of old pension scheme. Respondents not regularising the services of the applicant goes against the essence of Article 14 of the Constitution of India.

5. Respondents have not filed the reply statement despite being given ample opportunities over last 7 months. However, their counsel was present. The matter pertains to regularisation of a Casual Labour and therefore delaying the matter may not be fair. Hence, the case was heard in the interest of justice.

6. Heard both the counsel and perused the papers and documents placed on record.

7. As seen from the records placed before this Tribunal, it is seen that the respondents have granted temporary status to 16 Casual Labourers w.e.f. 06.04.2005, vide their Memo. Dated 08.04.2005 wherein the name of the applicant (in OA No.55/2019) did appear at Sl.No.1 and the name of the husband of applicant (in OA 1029/2017) did appear at Sl. No.6. Thereafter, the respondents, vide Memo No. CEO A/ 358/PEP 2015, dated 018.05.2015, have regularised the services of 14 temporary status Casual

Labourers. In the said Memo, it is clearly indicated that the regularisation has been granted as per the orders of this Tribunal dated 25.09.2014 in OA No.1136/2014. The Tribunal while directing the respondents in OA No.1136/2014, directed that the regularisation shall be on par with the applicants in OA No.1342/2011. The facts of the case thus indicate that the applicant in OA 55/2019 and applicant's husband in OA 1029/2017 are on par with those similarly situated, whose services respondents have regularised based on the orders contained in OA No.1136/2014. Further, extension of old pension scheme to all the Casual Labourers, vide respondents' Memorandums, dated 26.02.2016 and 28.07.2016 need to be extended to the applicants as well. The reason is that they satisfied the conditions laid down in cited Memos.

8. It is well settled law that similarly situated employees have to be extended similar benefits instead of forcing them to go over to the Tribunal/Court for seeking similar relief(s). In this regard, the following Judgements of the Hon'ble Apex Court are quoted below, in support of the assertion made:

(a) In Amrit Lal Berry vs Collector Of Central Excise, (1975) 4

SCC 714 :

"We may, however, observe that when a citizen aggrieved by the action of a Government Department has approached the Court and obtained a declaration of law in his favour, others, in like circumstances, should be able to rely on the sense of responsibility of the Department concerned and to expect that they will be given the benefit of this declaration without the need to take their grievances to Court."

(b) In Inder Pal Yadav Vs. Union of India, 1985 (2) SCC 648:

“...those who could not come to the court need not be at a comparative disadvantage to those who rushed in here. If they are otherwise similarly situated, they are entitled to similar treatment if not by anyone else at the hands of this Court.”

(c) In V CPC report, para 126.5 – Extending judicial decision in matters of a general nature to all similarly placed employees:

“We have observed that frequently, in cases of service litigation involving many similarly placed employees, the benefit of judgment is only extended to those employees who had agitated the matter before the Tribunal/Court. This generates a lot of needless litigation. It also runs contrary to the judgment given by the Full Bench of Central Administrative Tribunal, Bangalore in the case of **C.S. Elias Ahmed & Ors Vs. UOI & Ors, (OA 451 and 541 of 1991)**, wherein it was held that the entire class of employees who are similarly situated are required to be given the benefit of the decision whether or not they were parties to the original writ. Incidentally, this principle has been upheld by the Supreme Court in this case as well as in numerous other judgments like G.C. Ghosh V. UOI [(1992) 19 ATC 94 (SC)], dt. 20.07.1998; K.I. Shepherd V. UOI [(JT 1987 (3) SC 600)]; Abid Hussain V. UOI [(JT 1987 (1) SC 147], etc. Accordingly, we recommend that decisions taken in one specific case either by the judiciary or the Government should be applied to all other identical cases without forcing other employees to approach the court of law for an identical remedy or relief. We clarify that this decision will apply only in cases where a principle or common issue of general nature applicable to a group or category of Government employees is concerned and not to matters relating to a specific grievance or anomaly of an individual employee.”

(d) In a latter case of **Uttaranchal Forest Rangers' Assn (Direct Recruit) Vs. State of UP (2006) 10 SCC 346**, the Apex Court has referred to the decision in the case of **State of Karnataka Vs. C. Lalitha, 2006 (2) SCC 747**, as under:

“29. Service jurisprudence evolved by this Court from time to time postulates that all persons similarly situated should be treated similarly. Only because one person has approached the court that would not mean that persons similarly situated should be treated differently.”

Thus, keeping the judicial pronouncements about similarly situated employees, in view, and also the OMs in regard to extension of benefit of old pension scheme to the applicants, respondents are directed to examine the representations made by the applicants and also treating these OAs as one and another representation and dispose of them within a period of 12 weeks from the date of receipt of a copy of this order by issuing a speaking and well reasoned order. There shall be no order as to costs. A similar direction mutatis mutandis would apply to OA No.1029/2017.

With the above directions, both the OAs are disposed of.

Registry is directed to keep a certified copy of this order in OA No.1029/2017.

**(B.V. SUDHAKAR)
MEMBER (ADMN.)**

Dated, the 12th day of July, 2019

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