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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH.

O.A. No. - 350/1006/2019. (M.A. 553/2019)

DETAILS OF THE APPLICATION:

PARTICULARS OF THE APPLICANTS:

- 1) Ruhit Tapader, Son of Late Kartik Chandra Tapader, aged about 45 years, residing at 1/14, Netaji Nagar, P.O.- Regent Estate, Kolkata-700092.
- 2) Manas Dey, son of Late B.C. Dey, <sup>aged about 48 years.</sup> 1/59A, Ashokanager, Tollygung, Calcutta - 700040.
- 3) Shambhu Nath Chakraborty, Son of Trina Chakraborty, <sup>aged about 48 years.</sup> 2/1A, Vidyasagar Upanibash, Post Office - Bagha Jafia, Calcutta - 700086.
- 4) Ashis Das, Son of Late Bhenindra Nath Shri Haricharan Das, <sup>aged about 48 years.</sup> Gorfa Main Road, Saful Para, Calcutta - 700078.
- 5) Sisir Kumar Saha, Son of Late Nagendra Krishna Saha, <sup>49</sup> 62, Regent Colony, Calcutta - 700040.
- 6) Narayan Ch Sen, Son of Ganesh Chandra Sen, <sup>aged about 48 years.</sup> 28, Deshopran Sashmol Road, Calcutta - 700033.
- 7) Ajoy Kumar Bose, Son of Shri Arun Bose, <sup>aged 49</sup> 5/5 Bijoy Garh, Calcutta - 700092.
- 8) Gora Chand Das, Son of Shri Gonga Chandra Das, <sup>aged about 44 years.</sup> Post Office & Village Subhes Gram, South 24 Parganas.
- 9) Ashutosh Chakraborty Son of Late Jitendra Chakraborty, <sup>aged about 48 years.</sup> D/23 Congress Nagar Colony, P.O. Basdroni, Calcutta - 700070.
- 10) Manik Lal Daskhaskel, Son of Late Sudhirkl Daskhal, <sup>aged about 49 years.</sup> of 22/1 D.H. Road Calcutta - 700053.

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- 11) Raja Bahadur, Son of Ram Chandra Bahadur, 14, Barada Sarani P.O. Haridevpur, Calcutta - 700082. *Chittri 43 years*
- 12) Santu Kumar Das, Son of Laksmi Charan Das, Village - Machinan, Post Office - Gopalnagar, Police Station - Kolaghat, District - Purba Medinipur, Pin - 721130. *aged about 47 years*
- 13) Kallal Bose, Son of Late Nitin Bose, 33H Monohar Pukur Road, Calcutta - 700029.
- 14) Prabir Seal, son of Late Narandra Nath Seal, 111/B, Rakhal Das Road, Calcutta - 700033. *aged about 44 years*
- 15) Manik Lal Das, Son of Shri Ananta Kumar Das, 7/63 Netaji Nagar, Calcutta - 700092. *aged about 44 years*
- 16) Manas Adhikari, Son of Late Dilip Kr. Adhikari, 39, Gobinda Banerjee Lane Calcutta - 700033. *aged about 47 years*
- 17) Rupan Biswas Son of Late Phonindra Nath Biswas, 78, Regent Place, Post office Regent Park, Calcutta - 700040. *aged about 46 years*
- 18) Sunil Kumar Rakshit, Son of Late Shyama Chandra Rakshit, 177/6, B.L. Saha Rd. Calcutta - 700053. *aged about 45 years*
- 19) Palan Kr Haldar Son of Shri Gopal Chandra Halder, 91, Tollygung Rail Colony, Calcutta - 700033. *aged about 44 years*
- 20) Partha Das, Son of Shri Gopal Das, 21/1, Pitambar Ghatak Lane, Calcutta - 700027. *aged about 44 years*
- 21) Parimal Roy, Son of Late N.B. Roy, 222 232, Sodpur First Lane, P.O. Haridevpur, Calcutta - 700082. *aged about 44 years*
- 22) Swapan Saha, son of Late Shri Monindra Lal Saha, Narua Panchanantala, Post Office - Chandannagar, Pin - 712138. *age about 49 years*

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- 23) Jagannath Ganguly, Son of Shri Jyotilal Ganguly, <sup>aged about 46 years</sup> Post Office  
Kanchrapara, Village – Barajonepur, North 24 Parganas.
- 24) Govinda Munsi, Son of Shri <sup>aged about 49 years</sup> Kolika Munsi 15, Vivekananda Park,  
Calcutta – 700070.
- 25) Shib Nath Mitra Son of Shri K.C. Mitra <sup>age about 47 years</sup> 90/7, Dakshin Para, Post  
Office- Dum Dum, Calcutta – 700028.
- 26) Debdas Roy, Son of Shri <sup>age about 49 years</sup> Prafulla Roy, 25A, Subas Pally, Regent  
Estate, Calcutta – 700092.
- 27) Jhantu Das, Son of Shri <sup>age about 46 years</sup> Satis Das, 8/13, Ne Moors Avenue  
Calcutta – 700040.
- 28) Arup Adhikary, Son of Late Indu Adhikary, <sup>age about 46 years</sup> 46, Moore Avenue,  
Calcutta – 700040.
- 29) Jhantu Seal, Son of Late Bhushen Seal, <sup>age about 46 years</sup> of 12/C/C, Dharmatala  
Road, Bose Pulero (Kasba) Calcutta – 700040.
- 30) Panchanan Mondal, Son of Late Duranta Mondal, <sup>age about 48 years</sup> of Village  
and P.O.- Kalikapur, P.S.-Sonarpur, Kolkata-700150.
- 31) Juthika Bhattacharya, <sup>D/o - late K. P. Bhattacharya aged about 43 years</sup> residing at 49, Gopal Chatterjee Road,  
Suk Char, Kolkata-700115.
- 32) Sailabala Nayak, Son of Late Magu Mallick, <sup>aged about 44 years</sup> of 135/B/1 Sara  
Road, Kolkata-700053.

... Applicants.

-VERSUS-

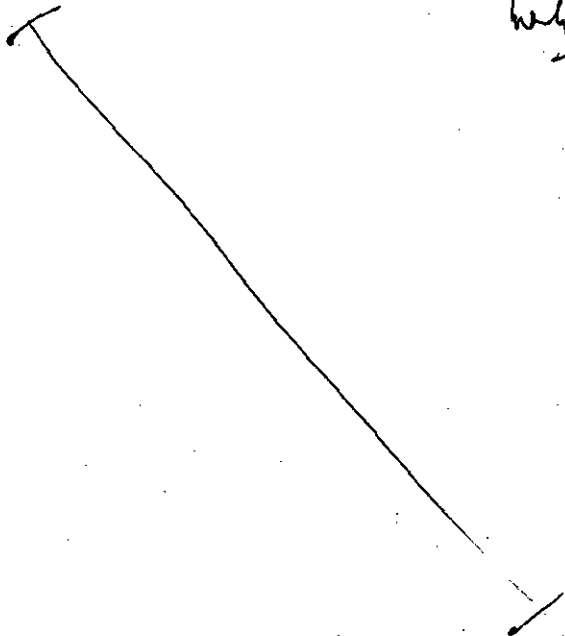
PARTICULARS OF THE RESPONDENTS:

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- 1) Union of India, service through the Secretary, Ministry of Information and Broadcasting, Government of India, Shastri Bhawan, New Delhi-110001.
- 2) The Director General, Doordarshan, Mandi House, New Delhi-110001.
- 3) The Chief Executive Officer, Prasar Bharti, Broadcasting Corporation of India, Mandi House, Copernicus Marg, New Delhi-110001.
- 4) The Director, Doordarshan Kendra, Doordarshan Bhawan, 18/3, Uday Shankar Sarani, Golf Green, Kolkata-700095.
- 5) The Dy. Director (Engineering), Doordarshan Kendra, Doordarshan Bhawan, 18/3, Uday Shankar Sarani, Golf Green, Kolkata-700095.
- 6) The Section Officer (S-II(A)), The Directorate General, Doordarshan, Mandi House, New Delhi-110001

... Respondents.

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**CENTRAL ADMINISTRATIVE TRIBUNAL  
KOLKATA BENCH, KOLKATA**

O.A. 350/01006/ 2019  
MA 556/2019

Order dated: 29.07.2019

**Coram : Hon'ble Ms. Bidisha Banerjee, Judicial Member  
Hon'ble Dr. Nandita Chatterjee, Administrative Member**

**Ruhit Tapader & Ors ..... Applicants.**

**Versus**

**Union of India & Ors..... Respondents.**

**For the applicant : Ms. A.Chakraborty, Counsel**

**For the respondents : Mr. S.Pal, Counsel**

**ORDER (ORAL)**

**Per Dr. Nandita Chatterjee, Administrative Member:**

The applicants have approached the Tribunal praying for the following relief:

*"(a) Office Order No. 28/13/2018-SII(A)/305 dated 01.07.2019 issued by the respondent No.6 is not tenable in the eye of law and as such the same may be quashed.*

*(b) An order do issue directing the respondents to allow the petitioners to continue their services at the present position and place of posting and thereby releasing salary to the applicants month by month without any disturbance along with all arrears till date with the admissible interest and to grant all the benefits of services attached to the posts which are similar in nature already in the respective cadre of the respondent Kendra.*

*(c) Such further or other Order or Orders be passed and/or Direction or Directions be given....."*

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Applicants have also prayed for the following interim relief:

*".....not to give any effect and/or further effect to the impugned Office Order No. 28/13/2018-SII(A)/305 dated 01.07.2019 issued by the respondent No.6 and thereby to allow the applicants to continue at their present posting on regular payments of remuneration and wages."*

2. Heard both Ld. Counsel, examined documents on record. Matter is taken up at the admission stage.

3. An M.A. bearing No. 556/2019, arising out of O.A. 1006/2019, has been filed praying for joint prosecution of the matter U/R 4(5)(a) of CAT Procedure Rules, 1987. Having been satisfied that applicants share a common interest and that they are pursuing a common cause of action, the M.A. is allowed and disposed of accordingly.

4. The submissions of the applicants, as canvassed through their Ld. Counsel, are that all the applicants are casual workers in Doordarshan Kendra at Kolkata for the last 20-30 years.

That, some of the applicants, of this O.A. had earlier preferred an O.A. before this Tribunal in 1998 praying for temporary status, which, although allowed by the Tribunal, vide its order dated 07.09.2001, was, thereafter, dismissed by the Hon'ble Apex Court.

That, thereafter, in 2012, some of the applicants had prayed for wages and benefits as extended to some of the persons working in the same capacity, but the Tribunal had turned down their prayer. Their prayer for payment of wages at the same rate was also turned down by the Tribunal. Consequently, the authorities are not paying the applicants wages on regular basis and, that, such

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wages remain unpaid since March, 2019 onwards and, as because an Office Order was issued on 01.07.2019 by which the Kendra was directed to hire casual labourer through HR agencies, the applicants have approached the Tribunal in the instant O.A. for relief.

5. Ld. Counsel for the Respondents controverts the claim of the applicants by stating that the Office Order dated 01.07.2019 (Annexure-A/5 to the O.A.) is based on a well settled national policy and is not confined only to the Office of Doordarshan Kendra, Kolkata, and, that, the national policy has been initiated for hiring of casual labourers through GeM on the basis of provisions of GFR. The Respondents would contend that such policy, based on the government rules, cannot be challenged by a few casual labourers on frivolous grounds.

Ld. Counsel for the Respondents also furnishes, during hearing, two statements dated 25.07.2019 that show that wages had been remitted to two sets of 7 and 26 casual workers respectively and, hence, the averment of the applicants that they have not been paid their wages since March, 2019 is not factually correct.

6. Ld. Counsel for the applicant would vociferously cite the ratio in **Union of India & Ors. Vs. Mahendra Singh & Ors., Special Leave to Appeal (C)...CCNo. 2587/2016**, in support, wherein, it has been held by the Hon'ble Apex Court as follows:

*"So far as Rule 178 of the General Finance Rules is concerned, suffice to mention that the mode of utilizing services through outsourcing is always available to the petitioners but merely on that count services of the casual labourers already working are not required to be dispensed with. In our considered opinion, the Central Administrative Tribunal, thus,*

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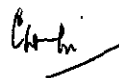
*rightly directed the petitioner respondent not to remove the respondent original applicants from service by another substituted employees under any guise or cover."*

Upon a close reading of the said order, however, it is seen that the Hon'ble Apex Court in Mahendra Singh (supra) had upheld the orders of the Tribunal that had restrained the Respondent authorities not to substitute the original applicants by another set of substitute employees under any guise.

Per contra, Ld. Counsel for the Respondents submits that they have no intention of replacing the applicants by another set of casual workers subject to fulfillment of eligibility conditions and, accordingly, the ratio of Mahendra Singh (supra) is not applicable in the case of instant applicants.

Ld. Counsel for the Respondents further submits that even if the casual labourers are hired through an agency through GeM as per GFR, as government policy mandates that all casual labourers should be paid minimum wages, there is hardly any scope of apprehension that, even if engaged by an outsourced agency, casual workers will not be paid wages mandated by government policy.

7. As the applicants, however, are apprehensive of losing their employment on account of engagement of HR Agency and for non-payment of wages thereafter, we hereby accord the applicants liberty to prefer a comprehensive representation citing rules and judicial decisions, if any, in their support, within three weeks of receipt of a copy of this order. We further direct the concerned Respondent authorities that, in the event such representation is preferred, to examine and dispose of the same within a further period of 12 weeks thereafter. The Respondent authorities, however, shall decide in accordance with law, and,





shall abide by the government guidelines, particularly, in the matter of payment of wages with reference to the applicants, if so engaged, subject to their eligibility, through an outsourced agency. Till such time that the representations are disposed of, Respondents may not dislocate the applicants from their present place of engagement.

In the event that no such representation is received within the stipulated time period, however, the Respondents are at liberty to act as per law.

8. With these directions, the O.A. is disposed of. Applicants will pay their individual court fees.

(Dr. Nandita Chatterjee)  
Member (A)

(Bidisha Banerjee)  
Member (J)

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