

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

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**O.A. No.63/1124/2018
M.A. No.63/77/2019
M.A. No.63/537/2019**

Date of decision: 26.8.2019

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

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Smt. Kunta Devi aged 58 years, wife of Sh. Balak Ram, working as Part time casual labourer (Sweeper) in the office of Sub Divisional Officer (Telecom), Bhangroutu, Telephone Exchange, Maira-Msit, H.P. (resident of 49/1, Mahal Mairajeetpur, H. No.179, Block-II, Tehsil Sadar, District Mandi-110047 (Group D).

...APPLICANT

VERSUS

1. Union of India through Secretary, Ministry of Communication and Information Technology, 20, Ashoka Road, Sanchar Bhawan, New Delhi-110001.
2. The Chairman-cum-Managing Director, Bharat Sanchar Nigam Limited, Corporate Office, 4th Floor, Harish Chander Mathur Lane, Janpath, New Delhi-110001.
3. The Chief General Manager, Telecom, Himachal Pradesh Circle, Bharat Sanchar Nigam Limited, SDA Complex, Kusumpti, Shimla-171009.
4. The General Manager, Telecom District (GMTD), Dharamshala, Bharat Sanchar Nigam Limited, Mandi (H.P.)-175001.

...RESPONDENTS

PRESENT: None for the applicant.
None for respondent no.1.
Sh. K.K. Thakur, counsel for respondents No.2 to 4.

ORDER (Oral)

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SANJEEV KAUSHIK, MEMBER (J):-

1. Sh. K.K. Thakur, learned counsel for respondents no.2 to 4 submitted that the issue involved in this case has already been put to rest in

O.A. No.63/648/2017 titled **Devi Singh & Ors. vs. U.O.I. & Ors.** decided on 30.11.2018, thus this petition also deserves the same fate.

2. I have gone through the O.A. The relief sought in this petition reads as under:-

“8(i). The respondents be directed to convert the service of applicant who is working since 1995 from Part Time Casual Labourers to Full Time Casual Labourer against Group `D'/Regular Mazdoor posts, with effect from the date 01.10.2000 or the date when other similarly situated Part Time Casual Labourers ones have been converted and regularized in terms of policy decisions to convert and regularize the Part Time Casual Labourers issued vide letter 16.9.1999, 25.8.2000 and 29.9.2000 (Annexures A-2, A-3 and A-4), respectively.”

3. This Court in the case of *Devi Singh & Ors. (supra)* had considered identical issue for converting part time casual labourers to full time and thereafter to regularize their service in terms of letters (Annexures A-2, A-3 and A-4), and dismissed that petition.

4. Being identical, this O.A. also deserves same fate as the case of **Devi Singh & Ors.** (supra), the relevant para of which reads as under:-

11. Over and above this, the department has stated that these policy instructions have become legally untenable in view of the law laid down by the Hon'ble Supreme Court in the case of *Uma Devi (supra)* and further, now no policy instructions have been issued and no regularization is under consideration. We find that the stand taken by the respondents is based on the Supreme Court judgment and cannot be interfered with. Generally appointments to public posts have to be made through open advertisement and through prescribed recruitment channels. Initial engagement as daily wager and then their conversion as full time daily wager or their regularization have been held to be violative of Articles 14 of the Constitution of India. It is not for the Courts or the Tribunals to direct the Government departments to frame policy for regularization or to make such regularizations. In the instant case, the department has clearly stated that there is no policy in existence as of now. The earlier policies were, in any case, one time measure and have now become legally untenable due to the judgment of the Hon'ble Apex Court in the case of *Uma Devi (supra)*. We also note that even on earlier occasions when the applicants approached this Tribunal, the Tribunal restrained itself from ordering grant of full time status to the applicants and had only ordered that the claim of the applicants will be considered by

the respondent department when contingency arises. This was the decision in 2015 when BSNL was statedly considering the matter of conversion of part time casual labourers into full time casual labourers against vacant posts. The order of the Tribunal was a general order with no specific time line and was based on the respondent department's policy of regularization which was statedly under consideration at that point of time.

12. We find that discrimination vis-a-vis Lal Ram again being agitated now, has already been dealt with in the earlier orders of this Tribunal dated 8.9.2015 whereby it was clearly stated as follows:

'We have carefully considered the material on record. It is established beyond doubt that the situation of Respondent No.5 Sh. Lala Ram was indeed different from that of the applicant Smt. Mani Devi and hence there is no merit in the claim of the applicant that she be given full time status from the date when Sh. Lala Ram was given the same.'

13. In view of all above, we do not find justification for issuing any direction to the respondent department on the prayer of the applicants regarding their conversion and regularization. As such, the O.A. is dismissed. No costs."

5. Accordingly, O.A. is disposed of in the same terms. All the pending MAs also stand disposed of as such.

(SANJEEV KAUSHIK)
MEMBER (J)

Date: 26.8.2019.
Place: Chandigarh.

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