(2022) 12 CAT CK 0029

In the Central Administrative Tribunal

Case No : Original Application No. 111 Of 2019

Jai Veer Singh & Ors — APPELLANT

Vs

Union Of India & Ors — RESPONDENT

Date of Decision : 23-12-2022

Acts Referred:

Citation : (2022) 12 CAT CK 0029

Hon'ble Judges : Om Prakash VII, Member (J)

Bench : Single Bench

Advocate : Ashish Srivastava, Vidyapati Tripathi

Final Decision : Allowed

Judgement

Om Prakash-VII, Member (J)

1. This O.A. has been filed by the learned counsel for the applicants for the following reliefs:-

i) This Hon’ble Court may be pleased to direct the respondents to give effect the order dated 1.10.2009 for regularization of services of the applicants in terms of Uma Devi’s case and further they may be considered for regularization and other consequential benefits in terms of the judgment of the Uma Devi’s case as well as in view of the latest judgment of Hon’ble Supreme Court in Narendra Kumar Tiwari case.

ii) This Hon’ble Court may be pleased to direct the respondents to extend all consequential benefits to the applicants including promotion and pay fixation accordingly and arrear of fixation along with admissible interest thereupon.

iii) Any other relief, which this Hon’ble Court may deem fit and proper in the facts and circumstances of the present case.

iv) Award cost of the original application in favour of the applicant.

2. The facts leading to the present O.A. are that applicants have been engaged in

the respondents department during the period 1992 to 1997 under respondent No. 3 on sanction strength and all of them are presently working. DOP&T had issued O.M. dated 7.6.1988 for regularization of daily wager, who have completed one year of service. DOP&T had again issued O.M. dated 10.9.1993 with regard to grant of temporary status and regularization. Chief Commissioner of Income Tax, New Delhi issued order dated 28.12.1999 to implement the order dated 10.9.1993. Respondents vide letter dated 12.1.2000 issued a list of daily wagers granting them temporary status who were in the strength in the month of December, 1994 and have completed 206 days in the department. All the applicants who have completed ten years of regular service were shortlisted and their names were referred to the office of respondent No. 3 for regularization. Vide order dated 1.10.2009, 22.1.2010, respondent No. 4 and respondent No. 2 had issued order of regularization of the applicants and forwarded the same to respondent No. 3. Though the order of regularization have been issued but it was never implemented and applicants are still working as daily wager. Central Board of Direct Taxes vide order dated 23.10.2018 has directed for grant of pay to the applicants and similarly situated persons in the grade of Rs. 5200-20200 +G.P. 1800 w.e.f. 1.1.2006. Benefit of grant of pay has been implemented upon the applicants from February, 2016. Applicants had given an application on 14.10.2018 to respondent No. 3 requesting the benefit of grant of grade pay as made available to other commisisonerate from 1.1.2006 and paid arrears of different of pay from 1.1.2006 to February, 2016.

3. Counter Affidavit has been filed by the learned counsel for the respondents, applicants have been engaged as casual workers w.e.f. 1.7.2010 vide office order dated 2.8.2010 (Annexure CA-1) of the Commissioner of Income Tax, Moradabad. It is further stated that DOP&T O.M. dated 10.9.1993 will not be applicable on the applicants as none of the applicants have completed one year of continuous service on the date of issue of O.M. dated 10.9.1993. It is further stated that in pursuance of the Hon'ble Apex Court decision in the case of State of Karnataka Vs. Uma Devi, list of daily wagers were obtained from the different offices to check eligibility. It is further stated that no order of regularization was issued on 1.10.2009. In fact it was a letter containing details of daily wagers submitted by the Additional Commissioner of Income Tax Range I, Moradabad to the Commissioner of Income Tax, Moradabad. Since none of the applicants were granted temporary status, they could not be regularized. It is further stated that pay was not granted to the applicants as per instruction dated 23.10.2013 because it talks about those casual workers who were granted temporary status in terms of Casual labourers (Grant of Temporary Status and Regularization) Scheme, 1993, whereas the applicants are not covered under this scheme. None of the applicants have worked for 10 years or more on duly sanctioned post, their services were not regularized.

3. Heard learned counsel for the parties.

4. Learned counsel for the applicants argued that all the applicants have

completed 10 years of continuous service and their names have been shortlisted and forwarded to the office of respondent No.3 for regularization. It is further argued that in the case of Uma Devi, the scheme of regularization was laid down for those daily wagers who have rendered 10 years of regular service but applicants have not been regularized even they have worked about 25-26 years of service whereas other daily wagers under respondent No. 2 have not only been regularized but were also given promotion in Group C category. Learned counsel for the applicants has also placed reliance of the following judgments:-

i) Ravi Verma and others Vs. Union of India and others (Civil Appeal No (s) 2795-2796 of 2018 (arising out of SLP (C) Nos. 33258-33259 of 2015 decided on 3rd March, 2018 by the Hon'ble Apex Court;

ii) Union of India and 4 others Vs. Hukum Singh and another (Writ A No. 18696 of 2022 decided on 7.12.2022 by Hon'ble High Court of Allahabad Bench

iii) O.A. No. 896/2013 (CAT Allahabad Bench) Hukum Singh Vs. Union of India decided on 10.5.2022

5. Learned counsel for the respondents argued that applicants have not been engaged as casual labour during the period 1992 to 1997 under respondent No. 3 on sanction strength but they have been engaged as casual labour w.e.f. 1.7.2010 vide office order dated 2.8.2010. It is further argued that DOP&T O.M. no. 51016/2/90 Estt. (C) dated 10.9.1993 was applicable to those casual labour who was completed one year of service in the Central Govt. on 10.9.1993. None of the applicants have completed one year of continued service on 10.9.1993.

6. Learned counsel for the applicant has also filed written arguments, in which he has reiterated the facts as stated in the O.A. and annexed the judgments which has already been annexed along with the O.A.

7. Learned counsel for respondents have also filed written submission whereby he has reiterated the facts as stated in the counter reply. However, it is further stated that none of the applicants have worked for 10 years or more in duly sanctioned posts, hence their services cannot be regularized.

8. I have considered the rival submissions and have perused the entire record.

9. From perusal of record, it is evident that respondents have not considered the case of the applicants for regularization only on the ground that applicants have not completed one year of service on 10.9.1993 whereas they have considered the case of other casual labour for regularization. Letter dated 1.10.2009 (Annexure No. 4 to the O.A.) issued by Additional Commissioner of Income Tax,Range I, Moradabad for regularization of casual labours in pursuance of Hon'ble Supreme Courts judgment in the case of State of Karnataka Vs. Uma Devi in which name of all the applicants are present along with their date of appointment/engagement. Date of applicant No.1 Shri Jai Veer Singh is present at Sl. No. 4 and his date of appointment is shown as 1.1.1995. Name of applicant No. 2 Shri Narayan Dutt Sharma is present at Sl.No. 3 and date of appointment

is shown as 1.1.1994. Name of applicant No. 3 Shri Suraj Pal is present at sl.No.1 at Annexure B and date of engagement is shown as 20.9.1993. Name of applicant No. 4 Shri Mohar Singh is shown at sl.No.5 and his date of appointment is shown as 1.1.1996. Name of applicant No.5 Shri Lakhan Singh is present at Sl. No. 7 at Annexure B and date of engagement is shown as 1.2.1996. Name of applicant no. 6 Shri Dheeraj Ram is shown at Sl. NO. 6 at Annexure C and his date of engagement is shown as March 1997. Name of applicant No. 7 Shri Ramesh Kumar is available at Sl. No. 5 and his date of engagement is shown as May 1997. Name of applicant No. 8 is available at Sl. No. 1 and his date of appointment is shown as 1.9.1993. Hence, it is clear that applicants have been engaged in the respondents department during the period 1993 to 1997 and plea taken by the respondents that applicants have been engaged as casual worker w.e.f. 1.7.2010 is not correct. Vide order dated 22.1.2010 (Annexure No. A-5 to the O.A.), respondents have regularized the services of 59 casual labours and at Sl. No. 59 of this list, to whom the respondents have regularized was engaged as casual labour on 1.7.1998 i.e. later than the engagement of the applicants, which proves that applicants have been a victim of discriminatory treatment.

10. The case laws relied upon by the learned counsel for the applicants will be fully applicable in the case of the applicants because in all the judgments referred above shows that discriminatory treatment has been meted out against the applicants, as in the case of present O.A. and on this ground, Hon’ble Court had directed to regularize the services of the applicant w.e.f. the date they become eligible.

11. Considering the facts and circumstances of the case and in the light of the observations of the Hon’ble Supreme Court, I am of the view that O.A. deserves to be allowed. Accordingly, O.A. is allowed. Respondents are directed to issue necessary orders forthwith, in no case later than a period of eight weeks from the date of this order, for regularizing the services of the applicants w.e.f. the date they become eligible in accordance with the scheme and guidelines for regularization of casual workers as was in existence at the relevant point of time and in accordance with letter dated 1.10.2009 (Annexure No. 4 to the O.A.) issued by Additional Commissioner of Income Tax,Range-I, Moradabad for regularization of casual labours in pursuance of Hon’ble Supreme Courts judgment in the case of State of Karnataka Vs. Uma Devi in which name of all the applicants are present along with their date of appointment/engagement.

12. There shall be no order as to costs.