(2023) 04 CAT CK 0023

In the Central Administrative Tribunal

Case No : Original Application No. 196 Of 2020

Veena Verma @ Beena & Ors APPELLANT

Vs

Union Of India & Ors RESPONDENT

Date of Decision : 13-04-2023

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19
Contract Labour (Regulation & Abolition) Act, 1970 — Section 5, 5(b), 31
Contract Labour (Regulation & Abolition) Rules, 1971 — Rule (2)(v)(a)
Constitution Of India, 1950 — Article 12, 32, 226

Citation : (2023) 04 CAT CK 0023

Hon'ble Judges : Manish Garg, Member (J)

Bench : Single Bench

Advocate : S.K. Gupta, Hanu Bhaskar, M.S.Reen

Final Decision : Disposed Of

Judgement

Manish Garg, Member (J)

1. This Original Application has been filed by the applicants under Section 19 of Administrative Tribunals Act, 1985, seeking the following relief(s):

“(i) quash and set aside the terms and conditions relating to working and related to monthly salary of the applicants etc. as set out in Annexure A-1 (Colly.)

(ii) direct the respondents to make salary to the applicants at the rate of 1/30th of the pay at the minimum of the relevant pay scale plus dearness allowances w.e.f. the due date;

(iii) confer the benefit of temporary status upon the applicants by extending the benefit of the order of this Hon?ble Tribunal dated 10.04.2019 in OA No.363/2019 & Chandigarh Bench dated 29.05.2019 in OA No.462/2019;

(iv) may also pass any further order(s), direction(s) as be deemed just and proper to meet the ends of justice.”

2. Brief facts:

2.1 Applicants, 29 in number, were initially engaged as casual labourers on different dates ranging from 27.01.2000 to 01.04.2008 and remained in employment under respondent No.3 till 31.10.2008.

2.2 Applicants submit that though they were initially engaged by office of respondent No.3 prior to 2008 but thereafter, they were forced to come through contractor and were being paid @ Rs.13,400/- p.m.

2.3 Applicants further submit that they filed OA No.3980/2018 claiming the salary @ 1/30th of the pay of the regularly selected employees, relying upon various judgments and OMs. The said OA was decided by the Tribunal at the admission stage itself, directing the respondents to consider the claims of the applicants duly keeping in view the various decisions enclosed to the OA and pass appropriate speaking and reasoned order thereon, in accordance with law within 90 days from the date of receipt of a certified copy of that order. The respondents were also directed to continue the applicants in the same capacity, if there is work and in preference to any freshers/juniors/ outsourced employees, or till the vacancies are filled up through regular recruitment.

2.4 Thereupon, the office of respondent No.3 constituted a committee and the said committee with lot of deliberations was pleased to observe that the applicants are entitled to get the salary from the ?Wages Fund? and not through contractor. It is further submitted that the report was submitted by the Committee on 18.06.2019 but after the aforesaid report, office of respondent no.3 issued general circular wherein it was made clear that the remuneration of the casual employee were to be paid from the head “Wages Fund” in terms of the instructions of the DOP&T. The said circular is based upon the OM of DOP&T dated 04.09.2019 but to the contrary, the office of respondent No.3 issued orders by which each of the applicants were ordered to be paid @ Rs.14,000 p.m.

2.5 The applicants submit that since they had performed the duties for eight hours, they are entitled to the minimum of the pay scale plus DA to which the total comes to more than Rs.18,000 p.m. The applicants further submit that in case of applicant no.15 it was stated that he will not claim regularisation and even no temporary status will be conferred. Rather it is submitted that if the law permits for regularisation of the temporary status the respondent cannot deny.

2.6 In this regard, they further submit that in respect of casual employees of Income Tax Department engaged prior to 10.12.2008, and still continuing to work in the Department, Hyderabad Bench of this Tribunal directed the office of respondent No.2 to confer the benefit of temporary status in terms of judgment dated 10.04.2019 in OA No.363/2019 and also Chandigarh Bench?s Order dated 29.05.2019 in OA No.462/2019. It is further submitted that even if the work is available and performance of the applicants is upto the mark, no restriction can be made to be employed for 200 days only as the respondents are estopped from engaging fresh set of employees in terms of the judgment of the Hon?ble

High Court of Delhi dated 08.07.2019 in WP (C) No.7187/2019 titled a Ramesh Chander Singh and others vs. UOI and others.

2.7 It is lastly submitted that Association of Income Tax employees federation requested the office of respondent No.3 to rectify the mistake and issue a corrigendum order in relation to the payment of wages in consonance with the DOP&T OM and the orders of the CBDT. In response thereto, respondent No.3 had issued circular dated 30.07.2019 and in the said circular it is clear that based upon the OMs of DOP&T dated 19.07.1988 and 07.02.2019, DOP&T has also issued one more circular dated 04.02.2019 wherein it has been decided to make payment contrary to the circular issued by DOP&T and CBDT is bad in law. Hence this OA.

2.8 With the permission of this Tribunal, learned counsel for applicants has also filed written submissions in addition to the submission made in the OA where in support of the claim of the applicants, he has relied on the following decisions of the Tribunal:

(i) Parveen Kumar and others vs. Union of India and others, OA No.456/CH/2012 decided on 11.10.2012 by Chandigarh Bench of this Tribunal.

(ii) Abdul Kadar and ors. vs. Union of India and others, OA No.531/2011 and batch decided on 14.08.2021 by Jodhpur Bench of this Tribunal. This case has been affirmed by the High Court of Judicature for Rajasthan at Jodhpur in DB CWP No.49/2013.

(iii) Anuj Kumar and another vs. Union of India and others, OA No.1991/2017 decided on 08.09.2022 by Principal Bench of this Tribunal.

(iv) P.Selvapathy and others vs. Union of India and others, OA No.310/00162/2022 decided on 25.02.2022 by Chennai Bench of this Tribunal

(v) Rehmat Ullah Khan vs. Union of India and others and batch, [1989] 10 ATC 656 (FB).

3. Per contra, respondents have filed their counter reply vehemently opposing the contentions raised by the applicants in the OA. It is submitted that applicants are casual labour and are being paid from the Wages Fund of the Government, which are calculated as per daily wages as notified by the appropriate government and on the basis of the days worked by the labour concerned. They are not deemed to be ?Workman? within the meaning of the Industrial Disputes Act 1947. Even otherwise, they are employed for a particular work in the department. The said wages being paid to the labour does not contain the element of DA. Since the applicants and/or similarly situated persons cannot be equated with permanent/ temporary status employees, hence they are to be paid as per daily wage earners and further they cannot be called to complete 240 working days in an year. They are not working against any sanctioned post.

3.1 As regards OA No.3980/2018 filed by the applicants before this Tribunal, it is submitted that in compliance of the Orders of this Tribunal a Committee was constituted to look into the matter and the said committee recommended to make their payment directly from the ?wages fund? and as per the notification issued by the Ministry of Labour. The Committee did not recommend to pay them salary at the rate of 1/30th of the pay of the relevant pay scale plus DA along with other terms and conditions. However, the applicants are not employed by the respondent department against any regular or vacant post they are only deployed for the work of seasonal or intermittent nature. The works performed by these casual workers are quite different from the work of regular employees to execute the works of urgent and time barring nature so as to achieve various targets set by Govt. of India.

3.2 In this regard, the respondents have submitted that the Board, considering the DoPT OM No.49014/2/86 Estt.(C) dated 07.06.1988 issued following instructions in respect of casual workers vide its letter dated 30.07.2019:

"……

(i) Persons on daily wages should not be recruited for work of regular nature.

(ii) Recruitment of daily wagers may be made only for work which is casual or seasonal or intermittent nature or for work which is not of full time nature, for which regular posts cannot be created.

(iv) Where the nature of work entrusted to the casual workers and regular employees is the same, the casual workers may be paid at rate of 1/30th of the pay at the minimum of the relevant pay scale plus dearness allowance for work of 8 hours a day.

(v) In cases where the work done by a casual worker is different from the work done by a regular employee, the casual worked may be paid only the minimum wages notified by the Ministry of Labour or the State Government/Union Territory Administration, whichever is higher as per the Minimum Wages Act, 1948. However, if a Department is already paying daily wages at a higher rate, the practice could be continued with the approval of its Financial Advisor.

….."

3.3 The respondents have further submitted that as per the Board?s direction, the casual labours are not recruited for work of regular nature. As per requirement, the Department floats a bidding contract to hire some causal labourers for helping the regular employees in execution of various targets set by the Government of India or the Central Board of Direct Taxes. Accordingly, various bidders participate and eligible bidder is awarded with the contract for providing such manpower. Certain terms and conditions are also narrated in the agreement of such contract. Some of those are reproduced below:

"22. The contractor shall be solely responsible for the redressal of grievances/ resolution of disputes relating to person deployed. The Income Tax Department shall, in no way, be responsible for settlement of such disputes and no claim disputes or reference arising out of the contractual liabilities i.e. the contracting agency/company and its employees i.e. the personal/workforce to be deployed at the office of the Pr. Chief Commissioner of Income Tax (CCA), Delhi, CR Building shall be ever entertained/looked into by the department.

24. The persons deployed by the contractor shall not claim nor shall be entitled to pay, perks and other facilities admissible to casual, ad hoc regular/confirmed employees of the Income Tax Department Delhi, during the currency or after of the contract as there is no private of contract between the department and the persons deployed.

Xxx xxx xxx

27. Payments shall be made only to the contracting agency and on monthly basis as per actual services. The contracting agency has to raise invoices in the first week of the next month of the services rendered in the month."

3.4 From the above mentioned facts, it is clearly demonstrated that the applicants were outsourced and deployed through contractor for casual, Seasonal and intermittent work and paid accordingly. However, as per committee's recommendations, they are now being paid directly from wages fund. It is further submitted that the OMs as issued by the DoPT as well as CBDT do not confer temporary status upon the casual workers who are deployed for seasonal and intermittent nature of work.

3.5 The issue of working directly or through the contractor is immaterial in so far as the applicants claim for regularization is concerned as both the modes do not confer any right to regularization upon the applicants. The only route is to appear in the Competitive Examination as conducted by the SSC for the post of MTS etc. Besides this route, there are routes like sports recruitment, compassionate appointment etc., but the casual labour appointments/engagements are considered back door entries as far as public employment is concerned. The applicants continued to work with the contractor or otherwise on minimum wages and for which they were not forced by the Department. Further their remaining as casual labours with the department do not create any vested right for them to either become permanent or have temporary status with the department.

4. Heard Mr. S.K.Gupta, learned counsel for applicant and Mr. Hanu Bhaskar and Mr. M.S.Reen, learned counsel for respondents. It is observed from the record of proceedings dated 21.09.2022 that the matter was kept part heard and learned counsel for respondents was supposed to obtain instruction regarding the stand of department pursuant to the case of employees working in the Rajasthan Charge. The next date of hearing was 10.10.2022. Again on 10.10.2022 last opportunity was granted to file short affidavit to the respondents to comply with the order dated 21.09.2022. Thereafter, again on 31.11.2022, similar opportunity was granted as the counsel for respondents was out of station. Further, on 10.02.2023 last and final opportunity was given to the learned

counsel for respondents to comply the previous order dated 10.02.2023 wherein it was made clear that irrespective of filing of the documents, the matter will be taken up for final adjudication on the basis of pleadings available on record on the next date of hearing. Accordingly, the matter was taken up for hearing on 17.03.2023 but still no documents were filed by the learned Senior Standing Counsel for respondents. The matter was heard at length and liberty was granted to the counsel for parties to file synopsis not exceeding 5 pages alongwith relevant case laws. It is also seen that no documents have been placed on record and no written submissions have been filed.

5. Analysis:

5.1 Normal Rule of precedent is that the latter Coordinate Bench is bound by the decision of the earlier Bench on same issue and/or point of law. The answer has to be seen in light of the plea of Jurisdiction and Alternative Remedy raised by the learned Senior Standing Counsel for respondents as he would further argue that issue whether the nature of work performed by applicants is similar to that of regular employees and for that matter they had worked for 240 days or not so as to relegate the applicant to Authorities/Courts under Industrial Disputes Act, 1947.

5.2 With the view to ascertain as to whether the decision rendered by the Co-ordinate Bench was similar and/or distinguishable to the facts of the present case, the case file of OA No.3980/2018 was called upon to examine the same.

5.3 On perusal of the records of the case, this Tribunal finds that the Co-ordinate Bench has laid correct proposition having regard to the facts in the said case. However, we find that the said Co-ordinate decision cannot be applied to the facts of the present case as issue in present OA is entirely in different context, on following counts:-

(i) The case in hand is second round of litigation, wherein as already noted above earlier OA No.3980/2018 was disposed of vide Order dated 17.10.2018 with direction(s) to the respondent to consider the claims of the applicants duly keeping in view the various decisions enclosed to the OA and to pass appropriate speaking and reasoned order thereon, in accordance with law, within 90 days from the date of receipt of a certified copy of this order. The respondents are also directed to continue the applicant in the same capacity, if there is work and in preference to any freshers/juniors/outsourced employees, or till the vacancies are filled up through regular recruitment.

(ii) Now, there is a challenge to the impugned Annexure A-1, which has been passed pursuant to the Order dated 13.09.2019. It is also noticeable that the said Annexure A-1 was not subject matter of challenge in said OA.

(iii) The applicants therein were not drawing wages from the “Wage Fund” but were directly working and getting wages from the Contractor. Hence, decision of Vibhuti case (supra) would have applied. Hence, this Tribunal cannot disagree with this finding on the point of law decided in facts of the said case. However, in the present case, the wages were being paid out of wage fund.

(iv) Unfortunately, the Committee constituted for the said purpose has not even dealt with the aspect as to whether the applicants are entitled to be paid at the rate of 1/30th of the pay at the minimum of the relevant pay scale plus dearness allowance for work of 8 hours a day or minimum wages, whichever is higher.

(v) The respondents are bound to follow the directives issued by CBDT dated 30.07.2019.

(vi) The Full Bench decision of this Tribunal in case of Rehmat Ullah Khan vs. Union of India and Ors., (1989) 10 ATC 656 (FB) shall be binding to this Tribunal, which was not brought to the judicial notice of the Tribunal. The Full Bench is a valid precedent binding on the Division Benches and single Judges of this Tribunal.

(vii) It may be also highlighted that this Tribunal is also bound by the decision rendered by Division Bench of the Hon?ble Rajasthan High Court in Civil Writ Petition No.49/2013 titled UOI and others vs.Abdul Kadar and others.

5.4 It is not in dispute that this Tribunal has powers to exercise and issue mandamus under Article 226 of Constitution. In a decision of the Supreme Court in Shri Anadi Mukta Sadguru Shree Muktajee Vandasjiswami Suvama Jayanthi Mahotsav Smarak Trust v. V.R. Rudani, (1989) 2 SCC 691, this aspect of the law has been candidly stated in these words:

“The term authority used in Article 226, in the context, must receive a liberal meaning unlike the term in Article 12. Article 12 is relevant only for the purpose of enforcement of fundamental rights under Article 32. Article 226 confers power on the High Courts to issue writs for enforcement of the fundamental rights as well as non-fundamental rights. The words, 'Any person or authority' used in Article 226 are, therefore, not to be confined only to statutory authorities and. instrumentality of the State. They may cover any other person or body performing public duty. The form of the body concerned is not very much relevant. What is relevant is the nature of the duty imposed on the body. The duty must be judged in the light of positive obligation owed by the person or authority to the affected party. No matter by what means the duty is imposed. If a positive obligation exists mandamus cannot be denied.”

5.5 The Hon?ble Supreme Court has further held as follows:

“Here again we may point out that mandamus cannot be denied on the ground that the duty to be enforced is not imposed by the statute. Commenting on the development of this law, Professor De. Smith states:

To be enforceable by mandamus a public duty does not necessarily have to be one imposed by statute. It may be sufficient for the duty to have been imposed by charter, common law, custom or even contract. (Judicial Review of

Administrative Act 4th Ed.p.540).

We share this view. The judicial Control over the fact expanding maze of bodies affecting the rights of the people should not be pug into watertight compartment. It should remain flexible to meet the requirements of variable circumstances. Mandamus is a very wide remedy which must be easily available "to reach injustice wherever it is found". Technicalities should not come in the way of granting that relief under Article 226. We, therefore, reject the contention urged for the appellants on the maintainability of the petition."

5.6 The respondent/UOI has issued OM from time to time regarding Persons on daily wages (casual workers), which have been reproduced below in nutshell for sake of brevity:

1. Appointment:

a) Persons on daily wages (casual workers) should not be recruited for work of regular nature.

b) Recruitment of daily wagers may be made only for work which is casual or seasonal or intermittent nature or for work which is not of full time nature, for which regular posts cannot be created.

c) The work presently being done by regular staff should be reassessed by the administrative Departments concerned for output and productivity so that the work being done by the casual workers could be entrusted to the regular employees. The Departments may also review the norms of staff for regular work and take steps to get them revised.

[O.M. No. 49014/2/86-Estt(C) dated 07.06.1988] [O.M. No. 49014/1/2017-Estt(C) dated 04.09.2019]

d) It has been observed that in spite of strict guidelines on engagement of Casual Labourer vide the above referred O.M, various Ministries/ Departments continue to engage casual workers for attending work of regular nature against the Government's policies. It is, therefore, reiterated that all Ministries/ Departments may ensure strict compliance of the guidelines on engagement of Casual Labourers. Negligence in the matter of implementing these guidelines should be viewed seriously and brought to the notice of the appropriate authorities for taking prompt and suitable action against the defaulters.

[O.M. No. 49019/1/95-Estt(C) dated 14.06.2016]

2. Pay/wages:

e) Where the nature of work entrusted to the casual workers and regular employees is the same, the casual workers may be paid at the rate of 1/30th of the pay at the minimum of the relevant pay scale plus dearness allowance for work of 8 hours a day.

A). Appointment, Pay/wages, Leave of Casual Labourer

In cases where the work done by a casual worker is different from the work done by a regular employee, the casual worker may be paid only the minimum wages notified by the Ministry of Labour and Employment or the State Government/ Union Territory Administration, whichever is higher, as per the Minimum Wages Act, 1948. However, if a Department is already paying daily wages at a higher rate, the practice could be continued with the approval of its Financial Adviser.

O.M. No. 49014/2/86-Estt(C) dated 07.06.1988]

[O.M. No. 49014/1/2017-Estt(C) dated 04.09.19]

(REF: The policy regarding engagement of casual workers in Central Government offices has been reviewed by Government keeping in view the judgement of the Supreme Court delivered on the 17th January, 1986 in the Writ Petition filed by Shri Surinder Singh and others vs. Union of India and it has been decided to lay down the following guidelines in the matter of recruitment of casual workers on daily wage basis). Also ref : U.P. Income Tax Department Contingent Paid Staff Welfare Association Vs. Union of India and Ors. (1987) Supp. SCC 658, 1998 State of Punjab and Ors. Vs. Devinder Singh and Ors. 1998 (9) SCC 595, Chief Conservator of Forests and Anr. Vs. Jagannath Maruti Kondhare and Ors. 1996 (2) SCC 293.

6. It is also bring to the notice in “an UNSTARRED QUESTION NO. 913 in LOK SABHA, GOVERNMENT OF INDIA, MINISTRY OF LABOUR AND EMPLOYMENT, following questions were answered on 21.11.2016, on Employment on Contractual Basis:

(a) the number of contract and casual workers working in the Central Government, Public Sector undertakings during the last three years and the current year, separately, State/UT-wise;

(b) whether organized sector enterprises/ employers are increasingly hiring workers on contractual terms and if so, the details thereof along with the Governments stand on engaging workers on contractual basis;

(c) the details of minimum wages paid to the contractual workers including the steps taken by the Government to provide "equal pay for equal work" to such contract and casual workers on the pattern of regular ones;

(d) the mechanism put in place to ensure payment of minimum wages to the contract and casual workers engaged through the labour contractors; and

(e) whether the Government has formulated any policy for safeguarding the interest of contractual/casual workers in terms of wages and other service conditions and also with regard to social security schemes including regularization and improvement of working conditions and if so, the details there of?

MINISTER OF STATE (IC) FOR LABOUR AND EMPLOYMENT (SHRI BANDARU DATTATREYA) answered as under :-

(a) & (b): The number of contract workers engaged on the basis of license issued under Contract Labour (Regulation & Abolition) Act, 1970 in the Central Sphere during the last 3 years is given below:-

Year

No. of Contract Labour*

2013-14

1967747

2014-15

1903170

2015-16

2092673

*State/UT wise figures are not available.

The number of casual workers working in the Central Government and the establishments thereunder is not centrally maintained. They are engaged by the establishments based on their individual requirements.

(c): Contract and Casual workers engaged in Central Government Offices have the protection of minimum wages fixed under the Minimum Wages Act, 1948. For "equal pay for equal work", the provision exists under Rule 25(2)(v)(a) of Contract Labour (Regulation & Abolition) Act, 1970. It stipulates that for the contract workers performing the same or similar kind of work as the regular employees of the establishment, the wage rates, holidays, hours of work and other conditions of service of the contract workers will be the same as applicable to the regular employee of the establishment performing the same or similar kind of work. Whenever any case comes, Deputy Chief Labour Commissioner (Central) is an authority under Rule (2)(v)(a) to decide the matter.

As regards the casual workers, in places where the nature of work entrusted to the casual workers and regular employees is the same, the casual workers is to be paid at the rate of 1/30th of the pay at the minimum of the relevant pay scale plus dearness allowance for work of 8 hours a day. In cases where the work done by a casual worker is different from the work done by a regular employee, the casual worker is to be paid only the minimum wages notified by the Central Government or the State Government/Union Territory Administration, whichever is higher, as per the Minimum Wages Act, 1948. However, if a Department was already paying daily wages at a higher rate as on 7th June, 1988, the practice could be continued with the approval of its Financial Advisor.

(d) & (e): Strict monitoring of payment is done by conducting regular inspections and whenever there is a delay or non-payment of wages, claim cases are filed before the respective Regional Labour Commissioner (Central) who is an authority under the Act to decide the claims.

Though there is no social security scheme as such to ensure registration of workers working on contract or casual basis in the Central Government, Public Sector Undertakings, the workers avail social security and other benefits of the Employees’ Compensation Act (1923), the Industrial Dispute Act (1947), the Employees’ State Insurance Act (1948), the Minimum Wages Act (1948), The Provident Funds Act (1925), the Employees Provident Fund and Miscellaneous Provisions Act (1952), the Maternity Benefit Act (1961), the Contract Labour Act (1970), the Payment of Gratuity Act (1972), etc.”

7. In the light of provisions of Contract Labour (Regulation & Abolition) Act, 1970 & Rules 1971, Section 5(b) clarifies that if a question arises whether work performed in an establishment is of an intermittent or casual nature, the appropriate Government shall decide that question after consultation with the Central Board or, as the case may be, a State Board, and its decision shall be final. In present case also no such consultation process has been made. Furthermore, an explanation to Section 5 clearly stipulates that for the purpose of this sub-section, work performed in an establishment shall not be deemed to be of an intermittent nature-

(i) if it was, performed for more than one hundred and twenty days in the preceding twelve months, or

(ii) if it is of a seasonal character and is performed for more than sixty days in a year.

No exemption of the provision of Contract Labour (Regulation & Abolition) Act, 1970 & Rules 1971 to the respondent has been produced on record in terms of Section 31 of the 1970, Act.

8. In present case, clause-4 of terms and conditions of order dated 13.09.2019 (Annexure-A-1), impugned herein, states that “After completing the above mentioned engagement period, if concerned charge gives its requirement, the daily wager may be engaged again. Otherwise the services of the daily wagers will automatically be terminated after completion of above engagement period.”

9. Hence, work performed cannot be said to be intermittent or seasonal character nature so as to deny the benefit to the applicants.

10. In the light of the aforesaid analysis, it is also noticeable that in the case of Abdul Kadar and Ors. vs. Union of India and Ors., OA No.531/2011 decided on 14.08.2012 by Jodhpur Bench of this Tribunal, it was held as under:

“After having given thoughtful consideration to the rival submissions and having examined the record, We are unable to find any jurisdictional error in the order impugned so as to consider interference in the writ jurisdiction.

As noticed above, by the orders dated 2/1 7 11.2008 and 18.10.2010, the petitioners consciously provided for fixation and enhancement of daily rates of the wages for the casual labourers. The orders did not draw any distinction in the Casual workers holding temporary status and other casual workers. As noticed, the department had consciously issued earlier the memorandum dated 07.06.1988 providing that where the nature of the work entrusted to the casual labourers and regular employees be the same, the casual labourers would be paid @ 1/30 of the pay at the minimum of the relevant pay scale plus dearness allowance for a work of 8 hours per day.

For the facts that the nature of work entrusted to the applicants is the same as entrusted to the regular employees and their working hours are also the same, or to say, minimum 8 hours of day, in our view, they could not have been discriminated against by providing that they would be getting the wages lesser status. The CAT has recorded categorical findings that the nature of the duties being performed by the applicants has not undergone a change: and that the applicants have been performing the duties of the regular employees or even more. These findings have not, as such been put to contention before us, and rightly so. The department has never adduced any material to show that for the applicants, there had been a shortened length of the duties or lesser quantum of work than the regular employees or any other difference in the nature of the duties. That being the position, the view taken by the CAT that there was nothing cogent available with the petitioners to reduce or alter the wage structure to the disadvantage of the applicants cannot be faulted at.

While concluding, we may observe that the order as passed by the CAT and this order relate only to the question of wages of the applicants while working as the casual workers and the subject matter of these petitions is not related to any other issue. Therefore, it is always open for the parties to otherwise take recourse to the appropriate proceedings in accordance with law in regard to other legal rights/obligations.

Subject to the observations foregoing, these writ petitions stand dismissed. No costs.

11. Conclusion:

In the light of the above detailed analysis and ratio, the respondents are directed to examine and consider the case of the applicants and unilateral action of the respondents in reducing the wages of the applicant. Therefore, the impugned order dated 13.09.2019 and 09/10.10.2019 [Annexure A-1 (colly.)] are quashed and set aside. Respondents are directed to consider and examine the case of the applicants in the light of the decision rendered by the Hon?ble High Court at Jodhpur wherein the decision of Coordinate Bench of Jodhpur Bench of this Tribunal was upheld thereby passing appropriate orders qua the applicants for grant of salary to the applicants at the rate of 1/30th of the pay at the minimum of the relevant pay scale plus dearness allowance w.e.f. the due date(s). The said exercise shall be completed within a period of two months from the date of receipt of a certified copy of this order. OA is disposed of in aforesaid terms. No order as to costs.

