IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

W.P.Nos.3982, 4353 and 5622 of 2020

WP No.3982 of 2020

M.Rukmani ... Petitioner

Vs.

1. The Union of India,
   Rep. By the Secretary to Government,
   Ministry of Finance, Department of Revenue,
   Central Board of Excise and Customs,
   North Block, New Delhi 110 001

2. The Chief Commissioner of Central Excise,
   67, A.T.D.Street, Race Course Road,
   Coimbatore – 641 018

3. The Commissioner of Central Excise,
   6/7, A.T.D. Street, Race Course Road,
   Coimbatore – 641 018

4. The Commissioner of Central Excise,
   No.1, Foulks Compound, Anai Road,
   Salem – 636 001

5. The Central Administrative Tribunal,
   City Civil Court Buildings,
   High Court, Chennai 600 104 ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus to call for the records pursuant to the impugned proceeding dated 10.12.2019 in OA No.1341 of 2012 of the 5th respondent Tribunal and after quashing the same, pray direct the respondents to grant temporary status to the petitioner from the date of her juniors with consequential and attendant benefits.

For Petitioner : Mr.V.Parthiban

For Respondents : No appearance for R1 to R4
R5 - Tribunal

WP No.4353 of 2020

R.Shanmugham ... Petitioner

Vs.

1. The Union of India,
Rep. By the Secretary to Government,
Ministry of Finance, Department of Revenue,
Central Board of Excise and Customs,
North Block, New Delhi 110 001

2. The Chairman
Central Board of Excise and Customs,
North Block, New Delhi 110 001

3. The Director General,
Directorate of Revenue Intelligence,
D-Block, Inderprastha Bhawan,
7th Floor, Inderprastha Estate,
New Delhi – 110 002.

4. The Additional Director General,
Directorate of Revenue Intelligence,
Rajaji Bhawan, Besant Nagar,
Chennai 600 020

5. The Central Administrative Tribunal,
   City Civil Court buildings,
   High Court, Chennai 600 104 ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus to call for the records pursuant to the impugned proceeding dated 10.12.2019 in OA No.1216 of 2012 of the 5th respondent Tribunal and after quashing the same, pray direct the respondents to grant temporary status to the petitioner together with consequential and attendant benefits.

For Petitioner	:	Mr.V.Parthiban
For Respondents	:	No appearance for R1 to R4 R5 - Tribunal

WP No.5622 of 2020

G.Chitra ... Petitioner

Vs.

1. The Union of India,
   Rep. By the Secretary to Government,
   Ministry of Finance, Department of Revenue,
   Central Board of Excise and Customs,
   North Block, New Delhi 110 001

2. The Chief Commissioner of Central Excise,
   6/7, A.T.D. Street, Race Course Road,
   Coimbatore – 641 018

3. The Commissioner of Central Excise,
   No.1, Foulks Compound, Anaimedu, Salem District – 636 001

4. The Assistant Commissioner of Central Excise,
   Kumarapalayam Range,
   Erode Central Excise Division,
   81, Bharathi Nagar, Choolai,

Veerappanchattram Post, Erode District – 638 004

5. The Central Administrative Tribunal,
City Civil Court buildings,
High Court, Chennai 600 104 ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus to call for the records pursuant to the impugned proceeding dated 10.12.2019 in OA No.1048 of 2012 of the 5th respondent Tribunal and after quashing the same and direct the respondents to grant temporary status to the petitioner together with consequential and attendant benefits.

For Petitioner : Mr.V.Parthiban

For Respondents : No appearance for R1 to R4
R5 - Tribunal

COMMON ORDER

(Order of the Court was made by S.M.SUBRAMANIAM, J.)

The applicants before the Central Administrative Tribunal are the writ petitioners before this Court. The original applications were filed to direct the official respondents to consider the name of the writ petitioners for conferring temporary status taking into account their long services as casual Labourers.

2. The Tribunal elaborately considered the relief as such sought for in

the original applications in the light of the Casual labourers (grant of temporary status and regularisation) Scheme of Government of India, 1993. Considering the scope of above scheme and relying upon the decisions of the Hon'ble Apex Court, the Tribunal dismissed the original application filed by the writ petitioners.

3. The learned counsel for the petitioners would submit that originally the claim of the petitioners were allowed and subsequently, it was dismissed. Be that as it may.

4. This Court is of the considered opinion that casual labourers cannot seek the benefit of regularisation in violation of Service Rules in force. The petitioner would rely upon the Office Memorandum issued by the Government of India, Ministry of Personnel, Public Grievances and Pensions dated 07.06.1988 as well as the Office Memorandum dated 10.09.1993. The said Office Memorandums would speak about the recruitment of casual workers and persons on daily wages. It is the policy decision of the Government of India for recruitment of casual workers in Government Departments. However, declaration of temporary status as Casual Labourers cannot be granted by the Courts in view of the nature of employment of the petitioners as casual

labourers. Casual labourers are engaged under the scheme or policy of the Government of India and on some occasions, they are engaged in time bound projects or engaged otherwise. It depends on the nature of engagement and therefore, the Tribunal was right in rejecting / dismissing the original applications with reference to the relief sought for to declare the writ petitioners as temporary casual labourers.

5. As far as grant of regularisation is concerned, it is to be granted strictly in accordance with the Service Rules in force. The legal principles for regularisation and permanent absorption are settled by the Constitutional Bench of the Hon'ble Supreme Court in the case of *[the Secretary, State of Karnataka and others Vs. Uma Devi and others]* reported in 2006 4 SCC 1. The principles are reiterated in subsequent judgements by the Apex Court even in certain cases where relief of regularisation has been granted by this Court. Such judgements are confined to the facts of the case and cannot be followed as a precedent. The said position has been reiterated in unambiguous terms in Paragraph 54 of the Uma Devi's case wherein the Constitutional Bench held that the judgements running counter to the legal principles settled in Uma devi's case have denuded to lose its status as precedents. Therefore, the orders of the High Court or even the Hon'ble Supreme Court running counter to the legal principles in Uma

Devi's case by the Constitution bench cannot be followed as a precedent.

6. As far as the present case is concerned, the petitioners are seeking temporary status. Such temporary status cannot be declared. However, there is no impediment for the respondents to continue their services as casual labourers on need basis. In view of the above principles, we do not find any infirmity with reference to the findings of the Central Administrative Tribunal. Thus, these writ petitions are dismissed. No costs.

[S.M.S., J.] **[M.J.R., J.]**
20.11.2024

Index: Yes/No
Speaking/Non-speaking order
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