REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 2795-2796 OF 2018
(Arising out of SLP (C) NOS. 33258-33259 OF 2015)

RAVI VERMA AND ORS. ...APPELLANT(S)

VERSUS

UNION OF INDIA AND ORS. ...RESPONDENT(S)

O R D E R

1. Heard learned counsel for the parties.

2. Leave granted.

3. The appellants have come up in the appeals aggrieved by the judgments and orders passed by the High Court and the Central Administrative Tribunal (CAT). They have prayed for the regularization of their services.

4. The appellants were appointed as casual employees in the Income Tax Department in the year 1993-94 since then they were working continuously. On 30th January 2004 with respect to other similarly situated employees, temporary status was granted. The respondent no. 4 on 30th December 2004 recommended the case of

the appellants for temporary status/ regularization. Again it was recommended for regularization on 14.06.2005. In the meantime, the decision in the *State of Karnataka* vs. *Uma Devi* (2006) 4 SCC 1 was pronounced by this Court, the same provided that the employees who had rendered services continuously for ten years without the cover of the court's order be regularized as the one-time measure.

5. On 11.12.2006, Government of India, Department of Personnel and Training (DoPT) on the basis of the dictum of *Uma Devi (*supra*)* has issued an Office Memorandum regarding regularization of qualified workers.

6. On 01.06 2007, again the case of the appellants was recommended for the purpose of regularization/temporary status as their services were required for the smooth functioning of the office of the Commissioner of Income Tax.

7. Respondent No.1 also issued circulars on the basis of the instructions issued by DoPT on 7.9.2007 providing for regularization of the incumbents who have served for ten years in the light of the decision of *Uma Devi* (supra).

8. Again on 7.11.2007/19.11.2007 information was forwarded along with a recommendation for the regularization of services of the

appellant and again on 1.1.2008 and 31.01.2008 also, recommendations were made. However services were not regularized, through Chief Commissioner, Income Tax, U.P. West, Ghaziabad regularized similarly placed 88 casual employees on 30.01.2009. The Chief Commissioner, Income Tax Orissa, Bhubneshwar also regularized similarly situated eight employees on 12.03.2009; orders of regularization have been placed on record respectively as Annexures P1 and P2. However, similar treatment was not accorded to the appellants.

9. On 01.06.2009 appellants 1,2 and 3 were sanctioned minimum of regular pay scale of Group D employees with Dearness Allowance in accordance with DoPT Circular dated 31.05.2004 and in terms of the orders of CCIT dated 7.11.2007 and 6.12.2007 on conferral temporary of status on the employees. On 22.9.2009, Chief Commissioner, Income Tax, Kolkata also regularized 111 similarly situated casual employees and 17 employees on 15.10.1990 and Chief Commissioner, Income Tax, Lucknow regularized 59 similarly situated casual employees on 22.01.2010. There was further regularization of 35 employees of the office of Chief Commissioner, Income Tax, Patna on 20.08.2010. However, the claim of the appellants was rejected by respondent no.3 though they had served continuously for more than

ten years and fulfill the requisite criteria for the purpose of regularization in terms of the circulars of DoPT and the decision rendered by this Court in *Uma Devi (supra)*. The appellants have also given the vacancy position.

10. The appellants filed Original Application before the CAT that was rejected. Respondent No.3 supplied information under the Right to Information Act (RTI) with respect to the vacancies w.e.f. 1990 to 2008 that has been placed on record as Annexure P7.

11. The order of the CAT was unsuccessfully questioned in the High Court; Review Petition was also filed; that has also been dismissed. Aggrieved thereby the appeals have been preferred.

12. Having heard learned counsel for the parties at length, we are of the considered opinion that appointments were only irregular one, this Court observed in para 53 *Uma Devi* (supra) thus:

> "53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V. NARAYANAPPA (supra), R.N. NANJUNDAPPA (supra), and B.N. NAGARAJAN (supra), and referred to in paragraph 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of courts or of

> tribunals. The question of regularization of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of this judgment. In that context, the Union of India, the State Governments, and their instrumentalities should take steps to regularize as a one time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularization, if any already made, but not subjudice, need not be reopened based on this judgment, but there should be no further by-passing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme."

13. In view of the aforesaid decision, the circulars and regularization of the similarly situated employees at other places and various recommendation that were made the services of the appellants ought to have been regularized in the year 2006; discriminatory treatment has been meted out to them. As per the decision of *Uma Devi* (*supra*), they were entitled to regularization of services; they did not serve under the cover of court's order. Illegality has been committed by not directing regularization of services.

14. We direct that the services of the appellants be regularised w.e.f. 1st July 2006 they are entitled to consequential benefit also let the respondents comply with the order in a period of three months from today.

15. The judgments and orders of the High Court and the CAT are set aside. The appeals are allowed to the aforesaid extent.

…………………..J.
(ARUN MISHRA)

…………………..J.
(U.U. LALIT)

NEW DELHI;
MARCH 13, 2018

ITEM NO.15 COURT NO.10 SECTION IV-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 33258-33259/2015

(Arising out of impugned final judgment and order dated 07-10-2014 in WP No. 741/2014 31-07-2015 in RP No. 185/2015 passed by the High Court Of M.p At Gwalior)

RAVI VERMA AND ORS. Petitioner(s)

VERSUS

UNION OF INDIA AND ORS. Respondent(s)

Date : 13-03-2018 These petitions were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE UDAY U. LALIT

For Petitioner(s) Mr. Prashant Shukla, Adv.
Mr. Osama Ahmad Abbasi, Adv.
Ms. Anushree Mishra, Adv.
Mr. Pashupathi Nath Razdan, AOR

For Respondent(s) Mr. Sandeep Sethi, ASG
Mr. Ravi Shankar Kumar, Adv.
Ms. Vimla sinha, Adv.
Mr. Nalin Kohli, Adv.
Mrs. Anil Katiyar, AOR

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The appeals are allowed in terms of the signed Reportable order.

Pending application, if any, also stand disposed of.

(NEELAM GULATI) (SUMAN JAIN)
COURT MASTER (SH) BRANCH OFFICER
(SIGNED REPORTABLE ORDER IS PLACED ON THE FILE)