



2024:KER:73359

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

&

THE HONOURABLE MR.JUSTICE P.G. AJITHKUMAR

TUESDAY, THE 1<sup>ST</sup> DAY OF OCTOBER 2024 / 9TH ASWINA, 1946

O.P. (CAT) NO. 148 OF 2024

AGAINST THE ORDER DATED 24.08.2022 IN OA (EKM) NO.737 OF  
2019 OF THE CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM  
BENCH

PETITIONER/APPLICANT:

KUMAR S  
AGED 42 YEARS  
S/O SASI, CONTINGENT WORKER, NARCOTICE CONTROL  
BUREAU RIU, THIRUVANATHAPURAM, RESIDING AT ROHINI  
NIVAS HARITHA NAGAR, KUTTIYAMOOD NETTAYAM  
P.O., THIRUIVANATHAPURAM, PIN - 695013.

BY ADVS.  
P.SANJAY  
A.PARVATHI MENON  
BIJU MEENATTOOR  
INDIRA.K.P.  
PAUL VARGHESE (PALLATH)  
KIRAN NARAYANAN  
RAHUL RAJ P.  
MUHAMMED BILAL.V.A  
BASILA BEEGAM  
DEVIKA S. PRASAD



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RESPONDENTS/RESPONDENTS:

- 1 UNION OF INDIA  
REPRESENTED BY SECRETARY,MINISTRY OF HOME  
AFFAIRS, DEPT. OF INTERNAL SECURITY NARCOTICS  
CONTROL OF BUREAU JAI SINGH MARG HANUMAN ROAD  
AREA NEW DELHI, PIN - 110011.
- 2 THE DIRECTOR GENERAL  
NARCOTICS CONTROL OF BUREAU WEST BLOCK NO. 1,  
WING NO. V R.K. PURAM, NEW DELHI, PIN - 110066.
- 3 THE ZONAL DIRECTOR  
NARCOTICS CONTROL BUREAU CHENNAI ZONAL UNIT,  
SY. NO. 49, PLOT NO. FD 2 2ND MAIN ROAD, 3 RD  
AVENUE, AYYARPAKAM AMBATTUR, CHENNAI,  
PIN - 500077.
- 4 THE SUPERINTENDENT,  
NARCOTICS CONTROL BUREAU REGIONAL INTELLIGENCE  
UNIT, T.C. 18/1901, KESAVAN NAIR ROAD,  
POOJAPURA, THIRUVANANTHAPURAM, PIN - 695012.
- 5 THE SUPERINTENDENT,  
NARCOTICS CONTROL BUREAU COCHIN SUB ZONE,  
COCHIN, PIN - 682037.

SRI T C KRISHNA, DSGI IN CHARGE

THIS OP (CAT) HAVING COME UP FOR FINAL HEARING ON  
23.08.2024, THE COURT ON 01.10.2024 DELIVERED THE  
FOLLOWING:



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**ANIL K. NARENDRAN & P.G. AJITHKUMAR, JJ.**

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**O.P.(CAT) No.148 of 2024**  
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**Dated this the 1<sup>st</sup> day of October, 2024**

**JUDGMENT**

P.G.Ajithkumar, J.

The petitioner has filed O.A.(EKM) No.737 of 2019 before the Central Administrative Tribunal, Ernakulam Bench, seeking a direction to the respondents to grant temporary status to the petitioner and regularise his employment under the Narcotic Control Bureau at its Regional Intelligence Unit, Thiruvananthapuram. The further direction sought is to finalise the proceedings in Annexure A7 without any inordinate delay.

2. The Tribunal dismissed the application with the following observations:

"12. However, what cannot be completely ignored is that the applicants were engaged even if it was intermittently for a period of 15 to 21 years at the time of filing of the O.A in one capacity or the other. This is indeed a long period and it is possible that during a majority of this period their engagement was almost on



a continuous basis. Since they were not against any specific posts and their engagement was initiated after 1993, **Secretary, State of Karnataka v. Umadevi [(2006) 4 SCC 1]** does not appear supporting their case. However, in case the respondents do consider sympathetically this fact of their long engagement in the department in some Scheme of regularizing such long serving contingent employees, this Tribunal will not stand in the way of the same. Of course, it would need to be a general scheme covering all such cases across different units of the NCB. While this may be in practice difficult to implement, it is only suggested as one possible step which could be considered by the respondents to help the applicants. However, this does not amount to a direction by the Tribunal. Other than this, it is also observed that informally many of the long working contingent employees have been re-engaged through the vendors who are successful through the Government e-Marketplace (GEM) in supplying casual labourers for the departments. Indeed it is brought out in the rejoinder that some of the contingent employees in the NCB in different units had been re-engaged by the vendors who were successful through the GeM. Hence, it is perhaps possible for the respondents to engage with their vendors in GeM to consider the services of long working contingent employees, in case, such services



are being procured by them through Government e-Marketplace. However, this too, should not be treated as a direction to the respondents but a suggestion in case the department is inclined to help these applicants, who have had a fairly long engagement under the department.”

The petitioner is aggrieved since the Tribunal did not give a positive direction to the respondents to regularise his employment and give him status as a temporary employee.

3. Heard the learned counsel for the petitioner and the learned DSGI-in-charge.

4. The contention of the petitioner is that he has been working as a contingent employee at the Thiruvananthapuram Regional Intelligence Unit of the Narcotic Control Bureau for the last 15 years. His request for regularisation was favourably recommended by the 3<sup>rd</sup> respondent and the steps have been taken on his submission. However, for one or other reasons, no steps resulting in regularisation of his employment has taken place. Annexure A7 is the letter issued by the 4<sup>th</sup> respondent to the 3<sup>rd</sup> respondent concerning the request of the petitioner for granting temporary status to his



employment. Although the said officials were in favour of regularising his employment, orders in that regard were not issued yet. The petitioner would claim that having put in service for more than 15 years and his services were beneficially utilised by the Department, he is entitled to be regularised by giving status of a temporary employee.

5. The Tribunal has considered claim of the petitioner in the light of the law laid down by the Apex Court in **Secretary, State of Karnataka v. Umadevi [(2006) 4 SCC 1]** and also the decision of this Court in O.P.(CAT) No.196 of 2020, and held that no direction could be given to the respondents to regularise the service of the petitioner.

6. The learned counsel for the petitioner would submit that from the observations in Annexure A7 itself, it can be seen that the petitioner was working as a contingent employee for years together and his service was beneficially utilised as Driver and for various surveillance activities in the Regional Intelligence Unit of the Narcotic Control Bureau, Thiruvananthapuram. When the petitioner has put in service



for such a long period of about 15 years, he has every right to get his employment regularised.

7. The learned DSGI-in-charge would submit that the petitioner cannot claim regularisation of his service in the light of the law laid down by the Apex Court in **Umadevi [(2006) 4 SCC 1]**. Evidently, the petitioner was a contingent employee employed on need basis. It was not a continuous employment or against any sanctioned post. Service of such a person cannot be regularised and therefore the plea of the petitioner cannot be entertained, the learned DSGI-in-charge contends.

8. Even according to the petitioner, he was engaged by the Department for the last 15 years. From the documents produced by him, Annexures A5 and A5(a), which are certificates regarding his attendance and wage slips, it is quite evident that he was engaged on a daily wage basis. It is also evident that he was not engaged continuously but for specified days in each month. The claim of the petitioner can be considered only in the light of such nature of his employment.



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9. In **Umadevi [(2006) 4 SCC 1]**, the Apex Court directed the Central and State Governments and the instrumentalities under it to regularise temporary employees, who have put in a minimum of 10 year service as on 10.04.2006 as a one-time measure. Persons employed against sanctioned posts, but on a temporary basis continuously, were allowed to be regularised. Going by the admitted case also, the petitioner is not entitled to claim the said benefit. It was in the light of the said proposition of law, the Tribunal dismissed the application filed by the petitioner with the directions as extracted above. We see no reason to find fault with the said view taken by the Tribunal. The petitioner is not entitled to get an order directing the respondents to regularise his services. Hence this original petition is dismissed.

Sd/-

**ANIL K. NARENDRAN, JUDGE**

Sd/-

**P.G. AJITHKUMAR, JUDGE**

dkr





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APPENDIX OF OP (CAT) 148/2024

PETITIONER ANNEXURES

- ANNEXURE A1 TRUE COPY OF THE INTER DEPARTMENTAL COMMUNICATION APPOINTMENT NO. V21/01/2004/NCB/RIU/TVM DATED 29.04.2004
- ANNEXURE A1 (A) TRUE COPY OF THE CERTIFICATE ISSUED BY THE 4TH RESPONDENT DATED NILL
- ANNEXURE A2 TRUE COPY OF THE LETTER NCB F.NO.III/27/02/2018/COH WAGES/CHENNAI/1319 DATED 20.11.2018
- ANNEXURE A3 TRUE COPY OF THE WAGE CLAIM AND ADVANCE RECEIPT F.NO. ADMN/1/2004/NCB/RIU/TVM/884 FOR NOVEMBER 2004 DATED 09.12.2004
- ANNEXURE A3 (A) TRUE COPY OF THE WAGE CLAIM AND ADVANCE RECEIPT F.NO. ADMN/11/2005/NCB/RIU/TVM/209 FOR MAY 2008 DATED 02.06.2008
- ANNEXURE A4 TRUE COPY OF THE LETTER DATED 10.05.2010 FROM THE 4TH RESPONDENT TO THE 3RD RESPONDENT HIGHLIGHTING THE PLIGHT OF CONTINGENT WORKERS AND RAISING THE ISSUE OF THEIR PENDING WAGES
- ANNEXURE A5 TRUE COPY OF THE WAGE SLIP NCB F.NO.III/23/1/2009-MDS5114 FOR THE YEAR OCTOBER 2011
- ANNEXURE A5 (A) TRUE COPY OF THE WAGE SLIP F.NO.12/CONT.WAGES/18/NCB/S/COK/380 FOR OCTOBER 2018 DATED 01.11.2018
- ANNEXURE A6 TRUE COPY OF THE LETTER FROM APPLICANT DATED 07.08.2008



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- ANNEXURE A7 TRUE COPY OF THE LETTER  
F.NO.MISC/CORRES-09/NCB/RIU/TVM FROM  
THE 4TH RESPONDENT TO THE 3RD  
RESPONDENT DATED 07.05.2009
- ANNEXURE A8 TRUE COPY OF THE INTER DEPARTMENTAL  
COMMUNICATION DATED 18.10.2011  
FOLLOWING A6 LETTER SENT BY THE  
APPLICANT
- ANNEXURE A9 TRUE COPY OF THE LETTER  
F.NO.1/MISC/12/NCB/SZ/TVM DATED  
25.07.2012 BETWEEN THE 2ND AND 3RD  
RESPONDENTS
- ANNEXURE A10 TRUE COPY OF THE LETTER DATED  
24.11.2016
- ANNEXURE A11 TRUE COPY OF THE REMINDER FROM THE  
APPLICANT DATED 12.12.2018
- ANNEXURE A12 TRUE COPY OF THE JUDGMENT DATED  
09.10.2018 IN O.A.NO.180/00681/2017 OF  
THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
ERNAKULAM C.T.AJITHKUMAR AND  
ANR.VS.UOI
- ANNEXURE A13 TRUE COPY OF THE REPRESENTATION GIVEN  
TO THE 1ST RESPONDENT DATED 25.11.2019
- ANNEXURE A14 TRUE COPY OF THE JUDGMENT IN OP(CAT)  
196/2020 DATED 25.11.2020
- ANNEXURE R1 TRUE COPY OF THE CERTIFICATES  
III/27/02/18/COH WAGES CHENNAI 1319  
DATED 20.11.2018
- ANNEXURE R2 A TRUE COPY OF THE LETTER  
F.NO.11/20(4)/2015-ESTT-195 DATED  
23.02.2017



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- ANNEXURE R3 (A) A TRUE COPY OF THE OFFICE MEMORANDUM  
NO.49014/2/2014-ESTT (C) DATED  
26.02.2016
- ANNEXURE R3 (B) A TRUE COPY OF THE O.M. NO. OM  
NO,51016/2/90 ESTT. (C) DATED  
10.09.1993
- ANNEXURE R4 TRUE COPY OF THE M.A.NO.1257/2019 IN  
O.A.NO.180/835/2019 AND ORDER CENTRAL  
ADMINISTRATIVE TRIBUNAL ,ERNAKULAM  
BENCH DATED 20.12.2019
- ANNEXURE R5 TRUE COPY OF CERTIFICATE REGARDING  
ATTENDANCE SHEET
- EXHIBIT P1 TRUE COPY OF THE ORDER IN O.A  
NO.180/00737/2019 & O.A  
NO.180/00835/2019 24.08.2022
- EXHIBIT P2 TRUE COPY OF THE OA NO.  
180/00/737/2019 DATED 9.10.2019 FILED  
BEFORE THE HON'BLE CENTRAL  
ADMINISTRATIVE TRIBUNAL, ERNAKULAM  
DATED 09.10.2019
- EXHIBIT P3 TRUE COPY OF THE REJOINDER FILED BY  
THE APPLICANT IN OA NO.  
180/00/737/2019 DATED 31-08-2021
- EXHIBIT P4 TRUE COPY OF THE REPLY STATEMENT IN  
O.A NO.180/00737/2019 FILED BY THE  
RESPONDENTS DATED 19-11-2019
- EXHIBIT P5 TRUE COPY OF THE ADDITIONAL REPLY  
STATEMENT IN O.A NO.180/00737/2019  
FILED BY THE RESPONDENTS DATED 29-07-  
2020