

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH**

**RA No. 54 of 2019  
(arising out of OA 203/2017)**

**Present: Hon'ble Mr. Gokul Chandra Pati, Member (A)**

1. Rajendra Narayan Malla, aged about 26 years, S/o Late Purendra Malla, working as Daily wage worker, R/o At – Netapur, PO-Khorad, Via-Kadua Pada, Dist-Jagatsinghpur.
2. Urmila Barik, aged about 33 years, D/o Bhagaban Barik, working as Daily Wage worker in Bhubaneswar GPOP, R/o At/PO-Deuli, Via-Pickukuli, PS – Begunia, Dist- Khordha.
3. Reena Swain, aged about 24 years, D/o Sadananda Swain, working as Daily Wage worker in Bhubaneswar GPO, R/o – Jharpada, Bazarang Nagar, Plot No.658/3319, PO-Budheswari, Bhubaneswar, Dist-Khorda.
4. Chittaranjan Rout, aged about 42 years, S/o Late Harish Chandra Rout, working as Daily Wage worker in Bhubaneswar GPO, R/o At-Kantapada, PO – Narangacha, Via-Ahiyas, Dist-Jajpur.
5. Sarat Chandra Nauyak, aged about 48 years, S/o Sankar Nayak, working as Daily Wage worker in Bhubaneswar GPO, R/o At-Adalbad, PO-Mukundadaspur, Via-Pipili, Dist-Puri.
6. Iqbal Khan, aged about 27 years, S/o Hekayat Khan, working as Daily Wage worker in Bhubaneswar GPO, R/o At-Purbakhanda (Part), PO/PS-Niali, Dist-Cuttack.
7. Gangadhar Sethi aged about 38 years, S/o Late Dhurba Sethi, working as Daily Wage worker in Bhubaneswar GPO, R/o At-Satakabad, PO-Biswanathpur, Via-Balipatna, Dist-Khordha.
8. Pravat Kumar Kar, aged about 43 years, S/o Late Duryadhan Kar, working as Daily Wage worker in Bhubaneswar GPO, R/o Nasikeswar, PO-Sisua, Via-Astaranga, Dist- Puri.
9. Purna Chandra Rout aged about 45 years, S/o Late Babaji Rout, working as Daily Wage worker in Bhubaneswar GPO, R/o Muraripur, PO-Benagadia, PS/Via-Khandapada, Dist-Nayagarh.
10. Mohan Nayak aged about 31 years, S/o Arata Nayak, working as Daily Wage worker in Bhubaneswar GPO, R/o At/PO-Ramachandi, via-Narangarh, Dist-Khurda.
11. Debiprasad Mohapatra aged about 32 years, S/o gopal Krishna Mohapatra, working as Daily Wage worker in Bhubaneswar GPO, R/o At/PO-Biraramachandrapur, Via- Satyabadi, Dist- Puri.
12. Ramesh Chandra Dash aged about 46 years, S/o Late Gobinda Chandra Dash, working as Daily Wage worker in Bhubaneswar GPO, R/o At/PO-Barimund, Via-Phulnkhara, Dist-Khurda.
13. Ranjubala Behera aged about 27 years, D/o Anata Charan Behera, working as Daily Wage worker in Bhubaneswar GPO, R/o At-Kantapada, PO-Sankhamari, Via-Baramba, Dist-Cuttack.
14. Jepuon Pradhan aged about 42 years, S/o Philman Pradhan, working as Daily Wage worker in Bhubaneswar GPO, R/o Badenajo, PO-Mallikapadi, Via-G.Udayagiri, Dist-Khandhamal.
15. Swarnalata Pradhan aged about 34 years. D/o Naran Pradhan, working as Daily Wage worker in Bhubaneswar GPO, R/o Banapur, PO-Sukal, Via-Satyabadi, Dist-Puri.

16. Golabun Begam aged about 29 years, D/o Hakim Alli Sah, working as Daily Wage worker in Bhubaneswar GPO, R/o Benapanjari, PO-Tirimal, Via-Jatni, Dist-Khordha.
17. Chandra Sekhar Behera aged about 42 years, S/o Late Damburdhar Behera, working as Daily Wage worker in Bhubaneswar GPO, R/o Daradagram, PO-Sidheswarpur, Dist-Jagatsinghpur.
18. Babita Panda aged about 32 years, D/o Hrusikesh panda, working as Daily Wage worker in Bhubaneswar GPO, R/o Batanda, PO-Kuha, Dist-Khordha.
19. Sanjukta Pradhan, aged about 33 years, D/o Shyamsunder Pradhan, working as Daily Wage worker in Bhubaneswar GPO, R/o Anugrahapur, PO/PS-Pipili, Dist.-Puri.
20. Smita Ojha aged about 21 years, D/o Balaram Ojha, working as Daily Wage worker in Bhubaneswar GPO, R/o B.P.Colony, Unit-8, Gopabandhu Nagar, Near Santoshi Maa Temple, Nayapalli, Dist-Khurda.
21. Sanatan Das, aged about 34 years, C/o Narayan Das, working as Daily Wage worker in Bhubaneswar GPO, R/o Unit-6, Bhimpur Mouza, Plot-751, Aerodrome Area, Bhubaneswar, Dist.- Khurda.
22. Abhinash Sethi aged about 21 years, C/o Dukhishyam Sethi, working as Daily Wage worker in Bhubaneswar GPO, R/o At/PO-Binayakpur, Dist-Puri.
23. Brajakishore Jena aged about 22 years, S/o Profulla Kumar Jena, working as Daily Wage worker in Bhubaneswar GPO, R/o Naragoda, PO-Tamando, Dist-Khurda.
24. Santosh Kumar Maharana aged about 37 years, S/o Gobinda Maharana, working as Daily Wage worker in Bhubaneswar GPO, R/o Banpur (Kansari Sahi), PO-Sakhigopal, Dist. – Puri.
25. Shaikh Bardul Arefin aged about 24 years, S/o Shaikh Sakrulah, working as Daily Wage worker in Bhubaneswar GPO, R/o Jadupur, Dist-Khordha.
26. Sunil Kumar Pradhan aged about 25 years, C/o Dinabandhu Pradhan, working as Daily Wage worker in Bhubaneswar GPO, R/o Pamasara, PO-Kairi, Dist.-Puri.
27. Subash Nayak aged about 39 years, S/o Purnachandra Nayak, working as Daily Wage worker in Bhubaneswar GPO, R/o At/PO-Athantar, Dist-Khordha.
28. Dilip Kumar Jena aged about 29 years, S/o Gopal Charan Jena, working as Daily Wage worker in Bhubaneswar GPO, R/o Naragada, PO/PS-Tamando, Dist.-Khordha.
29. Biranchi Narayan Das aged about 31 years, S/o Harihar Das, working as Daily Wage worker in Bhubaneswar GPO, R/o Lingipur, PO-Sisupalgarh, Dist-Khordha.
30. Amarendra Nath Sharma aged about 27 years, S/o Keshab Chandra Nath, working as Daily Wage worker in Bhubaneswar GPO, R/o At/PO-Rajnagar, Dist-Kendrapara.
31. Laxmidhar Dutta aged about 35 years, S/o Purnachandra Dutta, working as Daily Wage worker in Bhubaneswar GPO, R/o At/PO-Bishnupur, Dist-Puri.
32. Ramachandra Mohanty aged about 28 years, S/o Akadari Mohanty, working as Daily Wage worker in Bhubaneswar GPO, R/o Qr. No.81, Block No.-9, Type-III, Postal Colony, Unit-4, Bhubaneswar, Dist-Khurda.

33. Jinat Biswal aged about 24 years, S/o Pramod Kumar Biswal, working as Daily Wage worker in Bhubaneswar GPO, R/o Pamitira, PO-Osakana, Via-Machagaon, Dist- Jagatsinghpur.
34. Bidyadhar Nayak, aged about 40 years, S/o Maguni Nayak, working as Daily Wage worker in Bhubaneswar GPO, R/o Bidharpur, PO-Bhusandpur, Dist-Khurda.
35. Laxmidhar Panda aged about 37 years, S/o Basanta Kumar panda, working as Daily Wage worker in Bhubaneswar GPO, At/PO-Khuntabandha, Via-Mandhatapur, Dist-Nayagarh.
36. Anil Kumar Mohapatra aged about 36 years, S/o Gagan Chandra Mohapatra, working as Daily Wage worker in Bhubaneswar GPO, R/o Old Town, Badu Sahi, Bhubaneswar, Dist- Khurda.
37. Rakesh Kumar Mohanty aged about 30 years, S/o Pratap Kumar Mohanty, working as Daily Wage worker in Bhubaneswar GPO, R/o At/PO-Birtunga, Dist.-Puri.
38. Rabindra Sahoo, aged about 38 years, C/o Premananda Sahoo, working as Daily Wage worker in Bhubaneswar GPO, R/o At-Rathijema, PO/Via-Balakati, Dist-Khurda.
39. Sunil Kumar Pujapanda, aged about 25 years, S/o Chandrasekhar Pujapanda, working as Daily Wage worker in Bhubaneswar GPO, R/o At/PO-Old Town, Tala Bazar, Dist-Khurda.
40. Hrusikesh Baral aged about 34 years, S/o Mahendra Baral, working as Daily Wage worker in Bhubaneswar GPO, R/o At/PO-Taraboi, Via-Jatni, Dist-Khurda.
41. Srikanta Dalai aged about 29 years, S/o Damburdhar Dalai, working as Daily Wage worker in Bhubaneswar GPO, R/o At/PO-Gada Motari, Via-Delanga, Dist-Puri.
42. Rabindra Roula, aged about 35 years, S/o Kishore roula, working as Daily Wage worker in Bhubaneswar GPO, R/o At/PO-Tangarapali, Via-Butakumrada, Dist-Ganjam.
43. Basudev Mohanty, aged about 49 years, S/o Madhusudan Mohanty, working as Daily Wage worker in Bhubaneswar GPO, R/o At-Paikeswar, PO-Ohal, Via-Bamnall, Dist-Puri.
44. Pramod Rout, aged about 36 years, S/o Adhikari Rout, working as Daily Wage worker in Bhubaneswar GPO, R/o At/PO-Taraboi, Via-Jatni, Dist-Khurda.
45. Dinabandhu Pradhan, aged about 30 years, S/o Pranakrushna Pradhan, working as Daily Wage worker in Bhubaneswar GPO, R/o At/PO-Khandapara, Dist-Nayagarh.
46. Ramesh Chandra Sethi, aged about 30 years, S/o Shyam Sethi, working as Daily Wage worker in Bhubaneswar GPO, R/o At/PO-Kainfulia, Via-Bhapur, dist-Nayagarh.
47. Trinath Behera, aged about 35 years, S/o Harekrushna Behera, working as Daily Wage worker in Bhubaneswar GPO, R/o At/PO-Jatni, Dist.-Khurda.
48. Bansidhar Mangaraj, aged about 54 years, S/o Shyamsundar Mukhi, working as Daily Wage worker in Bhubaneswar GPO, R/o At/PO-Sundarpada, Bhubaneswar, Dist-Khurda.
49. Swadhin Kumar Nayak, aged about 27 years, S/o Raj Kishore Nayak, working as Daily Wage worker in Bhubaneswar GPO, R/o At/PO-Similia, Dist-Jajpur.

50. Alok Kumar Das, aged about 30 years, S/o Netrananda Das, working as Daily Wage worker in Bhubaneswar GPO, R/o At-Kharibil, PO-Erancha, Dist-Cuttack.
51. Kartika Chandra Behera, aged about 30 years, S/o Pramod Behera, working as Daily Wage worker in Bhubaneswar GPO, R/o At/PO-Mendhasala, via-Jatni, Dist-Khurda.
52. Sarmistha Rath, aged about 24 years, D/o Sarat Kumar Rath, working as Daily Wage worker in Bhubaneswar GPO, R/o At/PO-Dakhina Radas, Via-Rench, Dist-Puri.
53. Sanket Kumar Bhoi aged about 30 years, S/o Kanhucharan Bhoi, working as Daily Wage worker in Bhubaneswar GPO, R/o Qr. No.-3, Type-II, Block-1, Unit-4, Postal Colony, Bhubaneswar, Khurda.
54. Sanjaya Sahoo aged about 26 yers, S/o Raghunath Sahoo, working as Daily Wage worker in Bhubaneswar GPO, R/o At-Ranganisahi, PO-Balakati, Dist.- Khurda.
55. Dinabandhu Behera, aged about 41 years, S/o Late Arjuna Behera, working as Daily Wage worker in Bhubaneswar GPO, R/o At-Tikarpada, PO-Kalyanpur Sasan, Dist-Khurda.
56. Bapi Prasad Sethi, aged about 26 years, S/o Govinda Chandra Sethi, working as Daily Wage worker in Bhubaneswar GPO, R/o At/PO-Rangamatia (Talasahi), PO-Mancheswar, Bhubaneswar, Dist-Khurda.

.....Applicants.

#### VERSUS

1. Union of India, represented through Director General, Department of Posts, Dak Bhawan, New Delhi – 110001.
2. Chief Postmaster General, Odisha Circle, Bhubaneswar, Dist-Khurda.
3. Director Postal Services (BD & Mails), O/o Chief Postmaster General, Odisha Circle, Bhubaneswar, Dist-Khurda-751001.
4. Senior Post Master, Bhubaneswar GPO, Bhubaneswar, Dist-Khurda.
5. Senior Superintendent, RMS (N.Division), Cuttack-753001.

.....Respondents.

For the applicant : Mr.G.Rath, counsel  
Mr.S.Patra-1, counsel  
For the respondents: Mr.S.Behera, counsel

Heard & reserved on : 17.1.2020

Order on : 29.1.2020

#### **O R D E R**

#### **Per Mr.Gokul Chandra Pati, Member (A)**

This Review Application (in short RA) is directed against the order dated 22.8.2019 passed by the Tribunal in OA No. 22.8.2019. The RA has been filed within time as stipulated under the rules. The facts leading to this RA are that 56 applicants in OA No. 203/17 claimed that they were working as casual labourer under Bhubaneswar GPO and had represented to treat then as full time casual labourers with consequential benefits including regularization. The

respondents passed the order dated 10.3.2017, rejecting their representation and then issued the order dated 15.3.2017 by which it was decided that the workers are to be outsourced through an agency. Being aggrieved, the applicants had challenged both these order by filing the OA No. 203/17, which was disposed of by this Tribunal vide the impugned order dated 22.8.2019, with the following directions as under:-

“11. In view of the above, the OA is disposed of with a direction to the respondents to continue to engage the applicants, if services of any outsider are required in future and in that case the applicants will be entitled for the wages as per the circular dated 7.6.1988 of the DOPT (Annexure-A/10 to the Rejoinder), if the applicants are entrusted with the same work which is being discharged by the regular employees at present. The respondent no. 1 and 2 are at liberty to take appropriate action in the matter as discussed in para 8 of the order.”

2. The applicants have filed this RA against the order dated 22.8.2019 on the following grounds as under for which there are errors of facts and law apparent on the face of records justifying the review:-

(i) The averment of the respondents that the applicants were not being engaged after 13.12.2018 was not correct and the averment of the applicants was that they were engaged on monthly wage basis till April 2019 working regularly for 8 hours daily and copy of the bank accounts of some of the applicants were furnished in support of the averments. The applicants had also cited the judgment of this Tribunal in OA No. 805/15. But all these averments and case law cited have been overlooked by the Tribunal while passing the impugned order.

(ii) The respondents have stated in their written submission that the surplus staffs available have been deployed to discharge the work. But this plea was never taken by the respondents in the Counter filed in the OA No. 203/17. This submissions in the written submissions were considered by the Tribunal while passing the impugned order and the averments in the Rejoinder not disputed by the respondents were not taken into account.

(iii) The order passed by the Tribunal was beyond the prayer in the OA.

3. Vide order dated 15.11.2019, the RA was admitted and the respondents were directed to file reply to the RA, which was filed on 17.1.2020, stating as under:-

(i) As per the letter dated 1.3.1993 there is complete ban on engagement of fresh casual labourers with effect from 29.11.1989. Hence, the outsiders were engaged in some of the sections of the GPO on daily wage basis as and when required and the work entrusted to them was intermittent in nature and they were being paid the minimum wages as laid down by Government. The concerned outsiders cannot be considered to be casual labourers.

(ii) It is also stated that “since 13.12.2018, the extra work has been carried out by the surplus staff of the Department. The applicants working in National Sorting Hub were evicted to accommodate the staff of Postal Printing press, which had to be closed down after the order of the Respondent No.2. The applicants, who were working in Business Post center (BPC) and Book Now Pay letter (BNPL) establishments, are still continuing to carry out the extra work load on a daily wage basis.”

(iii) In the OA No. 805/15, the applicant was engaged against a vacant post which is not the case in this case.

4. Heard learned counsel for the applicants and the respondents. While the applicant's counsel pointed out that the findings in the impugned order are based on the observation in the Tribunal's order that the applicants were not engaged from 13.12.2018, relying on the written note files by the respondents although no such pleadings were available on record. Learned counsel for the respondents, on the other hand, argued vehemently that the grounds urged in the RA are not the valid grounds under law to justify the review of the impugned order.

5. The review of the order of the Tribunal is provided under the section 22(3) of the Administrative Tribunals Act, 1985, which is as under:-

“(3) A Tribunal shall have, for the purposes of 2[discharging its functions under this Act], the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:—

.....

- (f) reviewing its decisions;
- (g) dismissing a representation for default or deciding it *ex parte*;
- (h) setting aside any order of dismissal of any representation for default or any order passed by it *ex parte*; and
- (i) any other matter which may be prescribed by the Central Government.”

6. The provisions of the provisions of the rule 1 of the Order 47 of the Civil Procedure Code, 1908 which states as under: -

“1. Application for review of judgment – (1) Any person considering himself aggrieved –

- (a). by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,
- (b). by a decree or order from which no appeal is allowed, or
- (c). by a decision on a reference from a Court of Small Causes,

and who, from the discovery of new and important matter or evidence which after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.”

It is clear from the above provisions that review of the Tribunal's order is permissible only when the grounds stated in the rule 1 of the Order 47 are fulfilled. One of the grounds is the mistake or error apparent on the face of the record.

7. In this case, one of the grounds mentioned in the RA is that the averment of the respondents that the applicants were not being engaged from 13.12.2018, which was taken into account by the Tribunal while passing the

order dated 22.8.2019, was not included in the pleadings of the respondents and such a contention is not correct in view of the documents furnished with the Rejoinder showing that the applicants were engaged till April, 2019. It is observed that in para 3 of the reply filed by the respondents to the RA, some of the applicants are continuing to be engaged for extra work load in BPC and BNPL establishments. Such a contention is clearly contradictory to the submissions in the written notes filed in the OA after hearing that the applicants have been disengaged after 13.12.2018.

8. In the circumstances as discussed above, I am of the considered opinion that the submission of the respondents in their written notes about discontinuation of engagement of the applicants after 13.12.2018, are not supported by the averments in the pleadings of the respondents in the OA No. 203/17 and taking such submission into account while passing the impugned order dated 22.8.2019, was an error apparent on the face of the record, particularly since such submission is found to be not correct in view of the respondents' reply to the RA and therefore, this Review Application deserves to be considered in view of the position of law as discussed earlier.

9. Accordingly, the Review Application is allowed and the impugned order dated 22.8.2019 of this Tribunal passed in OA No. 203/17 is recalled and the OA is restored for fresh consideration.

10. It is seen that the applicants have filed a fresh OA No. 799/2019 challenging the decision of the respondents not allowing the applicants to be engaged, list the OA No. 203/2017 and the OA No. 799/19 on 7.2.2020 for hearing. There will be no order as to costs.

(GOKUL CHANDRA PATI)  
MEMBER (A)