

CENTRAL ADMINISTRATIVE TRIBUNAL**CUTTACK BENCH****OA No. 558 of 2019****Present: Hon'ble Mr. Swarup Kumar Mishra, Member (J)****Hon'ble Mr. T. Jacob, Member (A)**

1. Sri Benudhar Singha, aged about 40 years, Son of Late Gajendranath Singha, At/PO – Gududa Patna, P.S. Remuna, Dist – Balasore, is working as a casual worker attaining the duty of Electrician, H.P.T., At – Bhimpura, PO – Haripur, Motiganj, Dist – Balasore, Odisha.

.....Applicant.

VERSUS

1. Union of India, represented through the Secretary, Ministry of Information and Broadcasting, Govt of India, Shastri Bhawan, New Delhi, 110001.
2. Director General (Prasar Bharati), Door Darshan, Govt of India, Copernicus Marg, Mandi House, New Delhi – 110011.
3. Station Engineer, Door Darshan Maintenance centre and VHPT, AT- Bhimpura, PO- Haripur, Via – Motiganj, Dist – Balasore 756003.

.....Respondents.

For the applicant : Ms. U. R. Padhi, Advocate.

For the respondents: Mr. M. R. Mohanty, Advocate.

Heard & reserved on :05.02.2021

Order on :04.03.2021

O R D E R**Per Mr. Swarup Kumar Mishra, Member (J)**

The applicant by filing this OA under section 19 of the Administrative Tribunals Act, 1985, has prayed for the following reliefs:-

- (i) *To quash the speaking order dated 07.05.2019 (Annexure A/7) passed by Respondent No. 2 holding that the same is against the scheme formulated by the Government.*
- (ii) *To pass appropriate orders directing the departmental respondents to grant 1/30th Status to the applicant retrospectively.*
- (iii) *To pass such other orders/directions calling for the relevant records from the respondents as are deemed just and proper in the facts and circumstances of the case and allow the original application with cost.*

1. The case of the applicants as averred in brief in the OA is that the applicant is claiming 1/30th status from the departmental respondents. He had earlier filed one OA No. 863/2015 which was disposed of vide order dated 04.12.2015 directing the respondents to dispose of his representation. The applicant in this instant OA is challenging the speaking order passed by the

respondents dated 27.01.2016 (Annexure A/5) wherein they have rejected the claim of the respondents.

2. The respondents in their counter inter alia averred that the as per DOPT OM dated 07.06.1988 the applicant was paid minimum wages as notified by the state govt. The case of the applicant for grant of 1/30th status was considered but in the light of the Hon'ble Apex Court judgment in Uma Devi Case in Para 53 the same was rejected. The respondents further submitted that similar prayers made by the employees of DD Odisha ie. In TA No. 06/2013 dated 02.01.2019 (Annexure R/3) has been dismissed by the Tribunal.

3. Learned counsel for the applicant relied on some citations including the following:

- a) Hon'ble Apex Court in the case of Surinder singh & others vrs Union of India.
- b) Hon'ble Apex Court in the case of Director General of Post and others vrs K. Chandrasekhar Rao (2013) 3 SCC 310

4. It is ascertained that the HPT unit in which the applicant was engaged w.e.f. 15.01.1999 as contractual electrician has already been closed since the year 2018. Learned counsel for the applicant submitted that OM of the year 1988 vide annexure R/1 and specifically clause 4 of the said OM is applicable to the applicant. Learned counsel for the respondents on the other hand submitted that subsequent to issue of said OM the govt had reviewed the policy decision as seen from R/4 dated 10.09.1993

wherein it was stipulated that person who have completed work for 240 days per year as on the date of the issue of said circular vide R/4 should be given benefit of 1/30th status. Since the applicant was not in service by 10.09.1993, therefore, there is no scope for going benefit under 1/30th status. Learned counsel for the applicant had submitted that since the applicant has completed 240 days of working days since the year 1999 the applicant is entitled to the benefit under the OM vide Annexure A/1. In this regard learned counsel for the respondents submitted that applicant is not continuing in job since 01.10.2019. Learned counsel for the applicant submitted that the impugned order vide annexure A/7 discloses total non application of mind since the applicant had not prayer for his regularization or conferring of temporary status and on the other hand applicant had prayed for benefit of 1/30th status as per clause 4 of Annexure A/1.

5. Learned counsel for the applicant had drawn the attention of this Tribunal to the advocate notice vide annexure A/10 and the salary particulars. This Tribunal has gone through the wages per month which was being paid to the applicant as shown in annexure R/1 for the months of March, 2012 & October, 2019. Learned counsel for the applicant had submitted that similarly situated person named Sita Jena has already been given

the benefit of 1/30th status. Learned counsel for the respondents on the other hand submitted that prayer for regularization of Sita Jena has been rejected by the department and OA filed by her is pending consideration before this Tribunal.

6. Learned counsel for the applicant had filed two MA's. One MA for requesting details of bio metric attendance and other for re-engaging the applicant in his post. Since these are disputed question of fact, the Tribunal shall not collect evidence with regard to the said disputed question of facts. Learned counsel for the applicant had drawn attention of this Tribunal to order passed by this Tribunal 04.12.2019 in support of her submission that the applicant could not have been discontinued from the job. But after going through the said order this Tribunal finds that no specific direction was given to the respondents not to discontinue the applicant from present job in question.
7. Accordingly the OA being devoid of merit is dismissed but in the circumstances without any order to cost. The MAs stand disposed of accordingly.

(T JACOB)
MEMBER (A)

(SWARUP KUMAR MISHRA)
MEMBER (J)

(csk)