

(2)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No.195 of 1988.

Date of decision : November 29, 1988.

1. Parsuram Sutar, aged about 30 years, son of Purusottam Sutar, at present working as Casual Mazdoor, Bhubaneswar Postal Store Depot, At/P.O.Bhubaneswar. District-Puri.
2. Jaleswar Mohapatra, aged about 29 years, son of Ramesh Chandra Mohapatra, at present working as Casual Mazdoor, Bhubaneswar Postal Store Depot, At/P.O.Bhubaneswar, District-Puri.

... Applicants.

Versus

1. Union of India, represented by its Secretary, Department of Posts, Dak Bhavan, New Delhi.
2. Postmaster General, Orissa Circle, At/P.O.Bhubaneswar, District-Puri.
3. Superintendent of Postal Store Depot, Satyanagar, At/P.O.Bhubaneswar, District-Puri.

... Respondents.

For the applicants ... M/s. Devanand Misra,
Deepak Misra,
R.N. Naik,
A. Deo, Advocates.

For the respondents ... Mr. A.B. Mishra, Senior Standing Counsel
(Central)

C O R A M :

THE HON'BLE MR. B.R. PATEL, VICE-CHAIRMAN

A N D

THE HON'BLE MR. K.P. ACHARYA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the Reporters or not ?
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

JUDGMENT

K.P.ACHARYA, MEMBER (J) In this application under section 19 of the Administrative Tribunals Act, 1985, the applicants pray to pass appropriate orders directing the respondents to absorb the applicant on regular basis with retrospective effect and pay the arrears as per their entitlement under law.

2. Shortly stated, the case of the applicants (two in number) is that they have been working as casual Mazdoor in the Bhubaneswar Postal Store Depot since 1977 and despite their work rendered to the Postal Department for a long period as yet their services have not been regularised by absorbing them against regular vacancies. Hence, this application has been filed with the aforesaid prayer.

3. In their counter, the respondents maintained that they have been following the Rules in letter and whenever vacancy arises the cases of several casual Mazdoors are taken into consideration for regular absorption; so much so, it is stated that after passing of the judgment in Transferred Application No. 319 of 1986 and in some other cases, casual labourers have been absorbed against regular vacancies. In addition to the same, it is also stated that following the recruitment procedure the applicants had been considered and had been directed to appear at a test. The applicants not having qualified themselves they could not be absorbed against regular vacancies.

4. We have heard learned counsel for the applicants and learned Senior Standing Counsel (Central), Mr. A.B. Mishra at some length. The modern trend of view conveyed in judicial pronouncements by the highest Court of the land is tending towards

social justice and therefore, modern trend is to absorb suitable persons in regular service as far as possible and subject to the prevalent Rules. Therefore, following the dictum of Their Lordships we had indicated in T.A.319 of 1986 that the petitioners in those cases should be absorbed on regular basis and we are happy to note that the departmental authorities have respected the directions given by this Bench in the said judgment. Here is a case before us involving similar point like that of T.A.319 of 1986. We note that the applicants had appeared at a test but unfortunately they have not qualified themselves. This would not stand as a bar against the applicants for further consideration. We would direct that as and when vacancies occur the cases of the applicants should be considered for absorption against regular vacancies subject to their suitability and the Rules laid down on the subject.

5. Thus, this application is accordingly disposed of leaving the parties to bear their own costs.

Agree *DRB*
..... 29.11.88
Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

I agree.

Agree *DRB*
..... 29.11.88
Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
November 29, 1988/S.Sarangi.