(10) 111

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH :CUTTACK.

O.A.Nos.101,102,103,104, 106, 183 of 1988,
215,216,217,218 and 219 of 1989.

Date of decision: February 13,1992.

O.A.101 of 1988.

Prahallad Chemi --- Applicant.

Versus

Union of India and others ... Respondents.

O.A.102 of 1983.

Madan Mohan ... Applicant.

Versus

Union of India and others ... Respondents.

O.A.103 of 1988

Achutananda Palatsingh ... Applicant.

Versus

Union of India and others ... Respondents.

O.A.104 of 1983.

Kailash Chandra Rout ... Applicant.

Versus

Unionof India and others ... Respondents.

O.A.106 of 1988.

Judhistir Mukhi ... Applicant.

Versus

Union of India and others ... Respondents.

O.A.183 of 1988.

Jaganath ... Applicant.

Versus

Union of India and others ... Respondents.

O.A.215 of 1989.

Supai ... Applicant.

Versus

Union of India and another ... Respondents.

O.A.216 of 1989.

Niranjan Swain ... Applicant.

Versus

Union of India and another ... Respondents.

O.A.217 of 1989.

Kulamani Barik ... Applicant.

Versus

Unionof India and another ... Respondents.

O.A.218 of 1989.

Kanda Majhi ... Applicant.

Versus

Union of India and another ... Respondents.

O.A.219 of 1989

Sudam ... Applicant.

Versus

Union of India and another... Respondents.

In allthe cases: For the applicant ... M/s.B.K.Sahoo, S.B.Misra, Advocates.

For the respondents ... M/s.B.Pal, S.C.Parija, O.N.Ghosh, Advocates.

C O R A M:

THE HONOURABLE MR.K.P.ACHARYA, VICE-CHAIRMAN

A N D

THE HONOURABLE MISS USHA SAVARA, MEMBER(ADMN)

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1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the Reporters or not ? No.
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH:CUTTACK.

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IV

O.A.Nos.101,102,103,104,106,188 of 1988,
215, 216,217, 218 & 219 of 1989.

Date of decision : February 13,1992.

O.A.101 of 1988.

Prahallad Chemi ... Applicant.

Versus

Union of India and others ... Respondents.

O.A.102 of 1988.

Madan Mohan ... Applicant.

Versus

Union of India and others ... Respondents.

O.A.103 of 1988.

Achutananda Palatsingh ... Applicant.

Versus

Union of India and others ... Respondents.

O.A.104 of 1988.

Kailash Chandra Rout ... Applicant.

Versus

Union of India and others ... Respondents.

O.A106 of 1988.

Judhistir Mukhi ... Applicants.

Versus

Union of India and others ... Respondents.

O.A.188 of 1988.

Jaganath ... Applicant.

Versus

Union of India and others ... Respondents.

O.A.215 of 1989.

Supai ... Applicant.

Versus

Union of India and others ... Respondents.

O.A.216 of 1989.

Niranjan Swain ... Applicant.

Versus

Union of India and another ... Respondents.

O.A.217 of 1989.

Kulamani Barik. ... Applicant.

Versus

Union of India and another ... Respondents.

O.A.218 of 1989.

Kanda Majhi ... Applicant

Versus

Union of India and another ... Respondents.

O.A.219 of 1989.

Sudam ... Applicant.

Versus

Union of India and another ... Respondents.

In all the cases: For the aplicant ... M/s.B.K.Sahoo, S.B.Misra, Advocates.

For the respondents ... M/s. B.Pal, S.C.Parija, C.N.Ghosh, Advocates.

C O R A M:

THE HONOURABIE MR.K.P.ACHARYA, VICE-CHAIRMAN

A N D

THE HONOURABLE MISS USHA SAVARA, MEMBER(ADMN.)

J U D G M E N T

K.P.ACHARYA, V.C., This common judgment will govern all the original applications mentioned above. In all these applications under section 19 of the Administrative Tribunals Act, 1985, the applicants pray for a direction to the Respondents to

regularise them with effect from 1.4.1973. This claim is advanced by the applicants on the basis of a circular issued by the Chief Engineer(Construction), in his memo No.ED/E/579/002946 dated 26.4.1989, directing regularisation of the services of the casual labourers who have fulfilled all the three conditions mentioned therein with effect from 1.4.1973.

2. In their counter, the respondents maintained that the said circular has no application to any of the applicants as they had not fulfilled the conditions mentioned in the said circular and furthermore, the Bench having already passed a judgment in O.A.113 of 1988, O.A.114 of 1988 and O.A.124 of 1988 on 9.2.1990 dismissing the claim of the applicants for regularisation with retrospective effect, it operates against the applicants in the present cases as the opinion expressed by the Bench in these cases have full application to the facts of the present cases.

3. We have heard Mr.B.K.Sahoo, learned counsel for the applicants and Mr.B.Pal, learned Senior Standing Counsel for the Railway Administration at a considerable length. Mr.Sahoo urged on the basis of the said circular that all the applicants have complied with the three conditions laid down therein and they are entitled to regularisation with effect from 1.4.1973. On the other hand, Mr.B.Pal, learned Senior Standing Counsel(Railways) for the respondents urged that almost all the applicants have not complied with the conditions 1 and2 and none of the applicants have fulfilled the condition mentioned against serial No.3 and therefore, the applications are bound to be dismissed. It

was further contended by Mr.Pal that the case of the applicants is not at all covered by the circular mentioned above. Hence , these cases should be dismissed.

4. We do not want to express any opinion on the contentions advanced by counsel for both sides even though we have dismissed the review applications filed to review the judgments passed in O.A.113 of 1983, O.A.114 of 1983 and O.A.124 of 1983 on 9.2.1990. Even though we have taken adverse view against the applicants in those review applications regarding the maintainability of the review applications yet our dismissal of the review applications should not weigh against the applicants if otherwise they are entitled to the relief claimed under that circular. In the interest of justice we could have passed orders on the relief claimed but we feel that certain facts are not available to us on the basis of which it could be determined asto whether the applicants fulfilled the conditions mentioned in the circular and without which it is utterly difficult to give any finding on the contentions raised during the course of argument advanced by counsel for both sides. Before the amendment petition was filed and copy of the circular was filed along with the same, no representation had been made to the competent authority to consider the matter and had there been any representation made, undoubtedly the competent authority would have expressed his opinion on the questions of fact which would have rendered considerable assistance to us to determine the issue at hand. Therefore, we are, at present, considerably handicapped to express any opinion on the contentions advanced by counsel for both sides. We would

direct that the applicants may file a representation before the competent authority within thirty days from today stating the details of their claim on the basis of which they could be regularised with effect from 1.4.1973. We further direct that the competent authority should consider their claim along with the facts involved for determining the respective claims and if any representation is made, the competent authority should dispose of the same with a reasoned order according to law. We hope and trust the competent authority would dispose of the matter within 90 days from the date of filing of the representation. It should be borne in mind that dismissal of the review applications on the question of law and dismissal of these original applications on the facts available then should not now weigh with the competent authority in view of the changed circumstances.

5. Thus, the applications are accordingly disposed of leaving the parties to bear their own costs.

Miss USHA SAVARA
MEMBER(ADMN.)

Sd/ K.P. Acharya
VICE-CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack,
February 13, 1992/Sarangi.