

Central Administrative Tribunal,
Cuttack Bench, Cuttack

Original Application No.111 of 1989

Date of decision: 15.7.1992.

Jayanarayana Misra and others

1 Applicants

Versus

Union of India and others

: Respondents

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

For the Respondents. : Mr. P.N.Mohapatra, Addl.St.Counsel,
(Central)

CORAM :

THE HON'BLE MR. K.P.ACHARYA, VICE CHAIRMAN,

AND

THE HON'BLE 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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(10)

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C O R A M:

THE HONOURABLE 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. In this application under section 19 of the Administrative Tribunals Act, 1985, the Petitioners (14 in number) pray to ^{quash} the order contained in Annexures-1 and 2 and to pass appropriate orders directing the Opposite Parties to effect categorisation on Indoor and Outdoor/field basis involving the nature of work and thereafter to draw separate seniority list in each category and regularise the Mazdoors in each category on the basis of the said seniority list in the Bhubaneswar Division and further direct the Opposite Parties to regularise the petitioners on that basis in the Indoor category of their

Division.

2. Shortly stated the case of the petitioners is that they have been working as Casual Mazdoors in the Indoor Wing of the Telecom Department and some of them have been appointed in the ~~year~~ 1972 and the rest have been working from 1980, 1981, 1982 and 1984, without any break in service. According to the petitioners before 1983, Casual Mazdoors were meant only for outside or field workⁱⁿ and there was no posts of regular Mazdoors sanctioned in the Indoor side. Regular Mazdoor posts in Indoor side were sanctioned vide memo No. Estt/2-44 dated 29th January, 1983. According to the petitioners the nature of duty of the Indoor Mazdoors are completely different in comparison with the Outdoor category of Mazdoors. The main grievance of the petitioners is that without separating the casual mazdoors indoorwise and outdoorwise one common panel is being prepared indicating the total number of working days of both category of employees which is against the norms laid down by the Government of India and it wouldⁱⁿ seriously affect the service prospects of the Petitioners. Hence this application has been filed with the aforesaid prayer.

3. In their counter, the Opposite Parties maintained that there is no rule specifying the Indoor wing and the Outdoor wing of the Department for the casual mazdoors. The Petitioners have styled themselves according to their own will and pleasure. It is further submitted in the counter that as per the judgment of the Hon'ble Supreme Court 14117 posts have been created by the Government as per Annexure-3. Casual Mazdoors will be absorbed according to the norms laid down therein and the norms^{and} were prescribed as perⁱⁿ compliance of the judgment of the Hon'ble Supreme Court. In addition to the above, it is maintained in

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Original Application No.303 of 1988 filed by the present Petitioners ~~that~~ the Casual labourers had prayed to treat them as Indoor Casual Mazdoor and this contention was not accepted in the judgment dated 19th January, 1989 and it was ordered therein the casual Mazdoors be absorbed on the basis of the common seniority and suitability without categorisation. Hence according to the Opposite Parties the case being devoid of merit is liable to be dismissed.

4. We have heard the learned counsel for the petitioners and Mr. P.N.Mohapatra learned Additional Standing Counsel (Central) at a considerable length. All the petitioners in this case were petitioners in Original Application No.303 of 1988. One Shri Prafula Kumar Misra was Petitioner No.9 in Original Application No.303 of 1988 and he is not one of the petitioners in the present application. In original application No.303 of 1988, the grievance of the petitioners was that certain persons were selected for regular appointment and names of the petitioners in the said original application not having found place in the said list, they moved the Bench with a prayer to direct the Opposite Parties to consider the cases of the petitioners for regular appointment in respect of posts/vacancies relating to the Indoor Wing. In the said judgment it was stated that a seniority list of all the casual Mazdoors be prepared and keeping in view the guidelines issued by the higher authorities from time to time selection should be made on the basis of seniority and suitability. In case the petitioners do not come within the consideration zone, keeping in view their seniority position and the guidelines set forth from time to time, the petitioners should continue as Casual Mazdoors and as and when vacancy arises they should be absorbed against regular vacancies subject to their suitability. In the present case a different

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direction cannot be given. Apart from the above, learned counsellor or the petitioner could not be successful in convincing us that the appointment of the petitioners or any others was in regard to the different wings. The Casual Mazdoors who have been working under the Telecommunication Department and may be the work entrusted to them at different places namely Indoor or out door and for that purpose, both groups cannot be differently categorised. Taking into consideration of this aspect and especially the view expressed in the judgment passed in OA 303 of 1988, we do not feel inclined to take a view other than what has been taken in the judgment passed in OA 303 of 1988. Hence we find no merit in this application which stands dismissed leaving the parties to bear their own costs.

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MEMBER (ADMINISTRATIVE)

K. G. Mohanty
15/7/92

VICE CHAIRMAN

Central Admn. Tribunal,
Cuttack Bench/K. Mohanty

