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Ajoy Kumar Parida ... Applicant
Versus.

For Applicant - M/s. S.Misra-1 and S.N.Misra
Advocates

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THE HON'BLE MR. R. BALASUBRAMANIAN, MEMBER (ADMN.)
AND

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ANIAN, MEMBER (ADMN.) This is an application filed under Section 19 of the Administrative Tribunals Act by Mr. Ajoy Kumar Parida against the Union of India and the Accountant General (A & E), Orissa. The applicant is ^a visually handicapped (blind) person. He has been working as a contingent worker

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from 17.3.86 for recaning the chairs. He was initially employed on a daily rate of Rs.9/- which was later raised to Rs.10/-. In February, 1988 the rate was further raised to Rs.15.25 paise. The applicant has alleged that he was paid only upto 30.9.88 and has not been paid any wages for the months of October, November and December, 1988. From 1.1.89 the applicant was being paid not on daily rate basis but on the piece-rate of Rs.13.50 per chair. The applicant states that he has not been engaged in any work after 10.3.89.

2. The applicant points out that there are about 3,000 Cane chairs in the A.G.'s office and that there is enough work for two recaners. It is his point that besides recaning he had also been trained in packing. It is his further point that in accordance with the Government of India instructions there is enough work for him to be engaged on regular basis for recaning as well as packing. He also points out that applying the 100 point roster in which point three is reserved for the blind persons, he is eligible for regularisation.

3. He has prayed that (a) the respondent No.2 be directed to absorb ^{him} ~~the applicant~~ in a regular post or in the alternative to move for creation of a post of recaner/packer and (b) to pay the applicant his wages for October, November and December, 1988 as a Skilled worker.

4. The respondents have opposed the prayer of the applicant. It is their point that in spite of the incentive given to him by raising the daily rate of wages to Rs.15.25 from 1.2.88 his performance was found to be unsatisfactory.

It was therefore decided to give a remuneration not on a daily rate but on a piece rate with effect from 3.10.88 of Rs.15.00 per chair (seat and back). This rate was subsequently raised to Rs.13.50 per seat and Rs.10.00 for back retrospectively from 3.10.88. The remuneration of the applicant was accordingly drawn from 3.10.88 onwards, but he refused to receive the amount from the Cashier and hence it had to be redeposited in the bank. Since his work was found to be unsatisfactory and he being indisciplined, they did not engage him in work beyond 10.3.89 and entrusted the recaning work to the Orissa Association for the Blind instead of getting it done through any particular individual.

5. The respondent points out that there are only 1500 cane chairs out of which only 150 may require recaning per year. Thus according to them, there is not enough work for a regular recaner.

6. They have also pointed out that the applicant not being a regular worker is not eligible to approach this Tribunal for relief. Quoting the Department of Personnel Circular dated 7.6.88 on the subject of recruitment of casual workers and persons on daily wages - Review of policy (R-1) they have stated that after all eligible casual workers are adjusted against the regular posts to the extent such regular posts are justified, the rest of the casual workers who are not required have to be discharged. Since they have now entrusted the work to Orissa Association for the Blind, they have no work for a recaner and hence discharged the applicant from service.

7. In reply to the allegation of the applicant that

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87 contingent workers had been regularised, the respondents say that only 18 contingent workers were absorbed in Group 'D' posts at Bhubaneswar as per the guidelines issued by the Government of India.

8. As for non-payment of three months' wages as alleged by the applicant, the respondents state that this amount still lies in their Bank and will be paid to him when he approaches them for this payment.

9. While admitting this original application on 25.5.89 this Tribunal had ^{Passed} given an interim order directing the respondents to continue to give work to the applicant as and when available and also keep one post vacant for him to consider his regularisation.

10. We have examined the case and heard the learned counsels for the applicant and the respondents. Upto a certain point of time the work of the applicant who is a blind person had been satisfactory. Then the respondent was displeased with the performance of the applicant and had switched over to piece rate basis which was not to the liking of the applicant. This strained relationship ended in his being discharged and the work being entrusted to the Orissa Association for the Blind. The applicant was engaged as a casual labourer and there are instructions of the Government of India as seen from A-3, 4 and 5 that the blind persons are eligible for employment as recaners/ packers and that they are entitled to point 3 in the 100 point roster. The respondent has disputed the contention of the applicant that there is justification of work for the post of caners. Be that as it may, cannot the respondent justify atleast one multi-

11 functional post for caning and packing ? We find from the Department of Personnel Circular dated 7.6.88 (R-1) item (ix) that there is provision to combine more than one job to create a post if there is no justification for a post for a single job alone. We are of the opinion that although the work of caning alone may not justify one post, if it is combined with packing, there will be justification for atleast one post. When they have created 55 posts, certainly one post can be set aside for this ¹² ~~multi~~^{bi}-functional work. Coming to the 100 point roster, point 3 is reserved for the blind candidates as seen from the Department of Personnel Memo. dated 27.3.81 (A-4). Therefore, one post out of 55 posts should go to the blind candidate. If there is no other more eligible blind candidate who had been working as casual labourer with the respondent, then the applicant ^{should} be considered for regularisation, against the post kept vacant by the interim order passed on 25.5.89.

11. The applicant who was a casual labourer and engaged on daily wages was shifted to piece rate basis since the output of the applicant was not satisfactory. Since the work was got done on a casual basis, there can be no objection to this changeover. In this method, the applicant could even get more return if he was quick and efficient. We, therefore, feel that he was entitled to payment only as fixed by the respondent.

12. Summing up, we direct the respondents -

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- (a) to continue to engage the applicant on casual basis when there is work ;
- (b) to consider regularisation of the applicant against the post kept reserved against point 3 ^{of the roster} reservation for the blind persons; and
- (c) to release payment of his wages for October, November and December, 1983 which was earlier reccredited into the bank.

These directions may be carried out by the respondent within a period of three months from the date of receipt of a copy of the judgment.

13. There is no order as to costs.

Manendra
11.5.90

MEMBER (JUDICIAL)

Debabrata

MEMBER (ADMINISTRATIVE)

