

(9)

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application No.522 of 1989.

Date of decision : August 17,1990.

Balakrushna Madhi ... Applicant.

Versus

Union of India and others ... Respondents.

For the applicant ... M/s.Devanand Misra,  
Deepak Misra,  
R.N.Naik,A.Deo,  
B.S.Tripathy, Advocates.

For the respondents ... Mr.Aswini Kumar Misra,  
Sr.Standing Counsel (CAT)

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C O R A M:

THE HONOURABLE MR.B.R.PATEL, VICE-CHAIRMAN

A N D

THE HONOURABLE MR.N.SENGUPTA, MEMBER (JUDICIAL)

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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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J U D G M E N T

B.R.PATEL, VICE-CHAIRMAN, This case is a sequel to the one decided earlier by the Tribunal in O.A;339 of 1987. The judgment in the case was delivered on 20.4.1988. A copy of the judgment is annexed to the application as Annexure-4.

2. Briefly stated, the facts are that the applicant is a part time casual worker working in the Office of the Song and Drama Division, Bhubaneswar in the Ministry of

*B.R. Patel*

Information and Broadcasting. In O.A.339 of 1987 the relief sought <sup>by</sup> ~~for~~ by the applicant was enhancement of the wage he was paid and for absorption on regular basis in Group D post. Similar relief has been sought <sup>by</sup> ~~for~~ in the present case also. In the judgment in O.A.339 of 1987 we have held as follows:

" However, in future whenever any vacancy occurs, the case of the petitioner should be considered and he should be given appointment subject to his suitability."

and further,

" We feel that the competent authority in this case should also take a compassionate view over the petitioner and increase the daily wage for each work day."

3. The respondents in their written reply have indicated in paragraph 3(b) that they have since decided to increase the wage of the applicant keeping in view the judgment of the Hon'ble Supreme Court in the case of Surinder Singh and another versus The Engineer-in-Chief, C.P.W.D. and others reported in AIR1986 SC 584. Copy of the calculation has been furnished at Annexure-R/1.

4. We have heard Mr.B.S.Tripathy, learned counsel for the applicant and Mr.Aswini Kumar Misra, learned Senior Standing Counsel (CAT) for the respondents and perused the papers. Mr.Tripathy, learned counsel for the applicant vehemently urged that no action has been taken by the Department as yet on the judgment of this Tribunal in O.A.339 of 1987 and he prays that without any further delay the applicant should be appointed to a Group D post which will be in line with the decision of the Tribunal in the aforesaid case. Mr.Aswini Kumar

*Amal*

Misra, learned Senior Standing Counsel (CAT) on the other hand, pointed out that steps have been initiated to implement the judgment of the Tribunal in O.A. 339 of 1987 inasmuch as a decision has already been taken to increase the wage on prorata basis (as per Annexure- R/2) taking into account the initial of the pay of a Group D post.

5. As regards the regular absorption of the applicant in Group D post Mr. Misra points out that no such post exists and it would not be possible to appoint him to a regular post in Group D. The Department has maintained that the applicant is a parttime casual worker working for two hours daily. In view of this the applicant is free to work elsewhere for the remaining hours of the day. The Department should however fix up the time when the applicant should work for two hours so that the applicant would know when to come to Office and when he should leave. <sup>observed</sup> as we have also in the other case i.e. O.A. 339 of 1987 as there is no regular post of Sweeper the absorption of the applicant on regular basis cannot be done. However, we would like to reiterate that whenever a regular post of Sweeper is sanctioned for the Office of the Song and Drama Division, Bhubaneswar, the applicant should be appointed to that post subject to the result of verification of antecedents and other formalities as per Rules.

6. This application is accordingly disposed of leaving the parties to bear their own costs.

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 .....  
 Member (Judicial)  
 Central Admn. Tribunal,  
 Cuttack Bench, Cuttack.  
 August 17, 1990/Saranghi.

*[Signature]*  
 .....  
 Vice-Chairman

