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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 4 of 1989

Date of decision 14th March, 1989

1. Brundabana Mallik, aged about 24 years
son of late Pranakrushna Mallik,
at present working as IIInd Pharmacist,
P & T. Dispensary, Cuttack
15, Cantonment Road, Town and District
Cuttack.

Applicant

-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, Dist. Puri
3. Senior Superintendent of Post Offices,
Cuttack City Division, At, P.O. & District
Cuttack.
4. Medical Officer, P & T. Dispensary
15, Cantonment Road, Cuttack
Town and Sitrict Cuttack.

..... Respondents

For the Applicant M/s. Devanand Misra
Deepak Misra &
Anil Deo, Advocates

For the Respondents. Mr. A. B. Misra, Sr. 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 judgement ? Yes
2. To be referred to the Reporters or not ? *Y*
3. Whether Their Lordships wish to see the fair
copy of the Judgement ? Yes.

JUDGMENT

K.P. ACHARYA, MEMBER (J) In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays for a direction to be issued to the respondents to regularise the services of the applicant.

2. Shorn of details, the case of the applicant is that he has been working as the Second Pharmacist in the Posts & Telegraphs Dispensary situated at Cuttack. Initially he was appointed as such on 1.9.1986 and for some reason or the other he was relieved from the said post on 6.6.1987. An advertisement was published calling for applications for appointment to the said post i.e. Second Pharmacist and the applicant was one of the applicants. Vide Annexure-4 dated 9.12.1987 the applicant was appointed to the said post on casual basis and the applicant is continuing as such till today. From some source or the other the applicant derived knowledge that steps are being taken to dispense with his services as Second Pharmacist of Posts & Telegraphs Dispensary at Cuttack. Hence, this application with the aforesaid prayer.

3. In their counter, the respondents maintained that instructions have been received from the higher authorities that services of casual labours should be dispensed with before completion of 240 days and it is further maintained that from April, 1988 to December, 1988 the applicant has worked only for 227 days. Following such instructions the applicant is being dispensed with from service of Second Pharmacist of Posts & Telegraphs Dispensary, Cuttack. In a crux, it is

maintained by the respondents that the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. Deepak Misra, learned counsel for the applicant and Mr. A. B. Mishra, learned Senior Standing Counsel (Central) at some length. Mr. Deepak Misra submitted before us that though in the counter it is stated by the respondents that the applicant had worked for 227 days from April, 1988 to December, 1988 yet the days of work rendered by the applicant from 9.12.1987 to 31.3.1988 has not been stated and therefore, the statement of fact made by the applicant that he has worked for more than 240 days from 9.12.1987 to December, 1988 should be accepted. True, it is that nothing has been mentioned in the counter regarding the services rendered by the applicant from 9.12.1987 upto 31st March, 1988 and therefore, we feel inclined to say that there is considerable force in the contention of learned counsel for the applicant. That apart, the trend of view expressed by the Hon'ble Supreme Court is directly against the instructions issued by the concerned authorities that before completion of 240 days the services of casual workers should be dispensed with. Even though such instructions have not been placed before us yet we cannot approve of such guidelines if any, existing in the field. Hon'ble Supreme Court has emphatically observed that in a socialist-ic pattern of society and in these present hard days instead of dispensing with the services of casual workers who have worked for longer time, their services should be

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regularised. In the case of Surinder Singh and another v. The Engineer-in-Chief, C.P.W.D. and others reported in AIR 1986 SC 584, Their Lordships were pleased to observe as follows :

" We also record our regret that many employees are kept in service on a temporary daily-wage basis without their services being regularised. We hope that the Government will take appropriate action to regularise the services of all those who have been in continuous employment for more than six months. "

We have followed this dictum of Their Lordships in the case of Bijay Kumar Sahu and others v. Union of India and others forming subject matter of T.A. 319 of 1986 disposed of on 17.12.1986. We are also happy to note that in compliance with the aforesaid dictum laid down by Their Lordships the DirectorGeneral (P) in his letter No. 2-10/88-PE-I- dated 19.2.1988 contained in Annexure-5 states as follows:

" According to the judgment in question, the Deptt. has to prepare a scheme on a rational basis as far as possible, for absorbing the Casual Labourers who have been continuously working for more than one year in the Department. "

In the light of the above directions, the concerned officers have been requested to examine the creation of posts in different categories of casual labours namely, unskilled, semi-skilled and skilled to enable absorption of those casual labours on regular basis. We hope and trust, the concerned authorities in Orissa would follow the directives of the Director General in the above mentioned letter and do the needful as early as possible so that the observations of the Hon'ble Supreme Court

(with which we are bound) would be implemented without any loss of time. In such circumstances, we direct that the applicant should continue in service as Second Pharmacist in Posts&Telegraphs Dispensary, Cuttack and his case should be considered for regular absorption in the light of the scheme to be prepared.

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

K. Sarangi
.....14.3.89.....
Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

I agree.

K. Patel
.....14.3.89.....
Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
March 14, 1989/Sarangi.

