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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application no.93 of 1989

Date of Decision: 15-7-1992.

Narayan Mohanty and others applicant(s)

versus

Union of India & Others respondents

For the applicant

M/s.Devanand Mishra,
Deepak Mishra,
A.Deo,R.N.Naik,
P.Panda and B.S.
Tripathy, Advocates

For the respondents

Mr.P.N.Mohapatra,
Additional Standing
Counsel(Central Govt.)

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C O R A M

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

AND

HON'BLE MISS USHA SAVARA, MEMBER (ADMINISTRATIVE)

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

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JUDGMENT

MR.K.P.ACHARYA, VICE-CHAIRMAN, In this application under Section, 19 of the Administrative Tribunals Act, 1985 the petitioners (seven in number) pray for a direction to be issued to the opposite party no.3 to produce the notification in Memo No. EST-2/44 dated 29.1.1983 for perusal of this Bench and to pass appropriate orders quashing annexures 1 and 2 and to direct 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 (Indoor and Outdoor) and furthermore to direct the opposite parties to regularise the petitioners on that basis.

2. Shortly stated the case of the petitioners is that they are working as casual mazdoors in the indoor wing of telecommunication department since 1972. According to the petitioners since 1983 there are two categories of mazdoors viz. mazdoors ^{who are} ~~should~~ do indoor work and mazdoors ~~engaged in~~ outdoor work. Nature of duty of both the categories of mazdoors are different and the petitioners are working continuously without any break in the indoor side having gained experience in their field for more than 240 days. Since their services have not been regularised, this application has been filed with the aforesaid prayer.

3. In their counter the opposite parties maintain that petitioner No.5 has already been selected and has been posted against a regular post alongwith some others. So far as rest of the petitioners are concerned, it is stated that in compliance with the judgment passed by the Hon'ble Supreme

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Court in writ petition Nos. 3, 412 and 373 of 1986, department of telecommunication conveyed the approval of the Government creating 14,117 regular mazdoors with certain stipulations and accordingly such mazdoors would be regularised against such posts according to their seniority and suitability as observed in Original Application No. 303 of 1988. Finally it is maintained that the case deserves no merit which should be dismissed.

4. We have heard Mr.R.N.Naik, learned counsel for the petitioners and Mr.P.N.Mohapatra, learned Standing Counsel for the Central Government.

5. Our attention was invited to the judgment of this Bench forming subject matter of O.A. No.303 of 1988 disposed of on January, 1989 (Jayanarayana Mishra vs. Union of India and others). The case of the petitioners in O.A. 303/1988 is practically the same in relation to the present case. In the said judgment following direction was given:

" We would direct that a seniority list of all the casual mazdoors be prepared (if not already prepared) and keeping in view the guidelines issued by the Higher authorities from time to time, the selection should be made on the basis of seniority and suitability. In case the applications do not come within the consideration zone, keeping in view their seniority position and the guidelines issued by the Higher authorities from time to time, the applicants should continue as casual mazdoors and as and when vacancy arises they should be absorbed against regular vacancy subject to their suitability ".

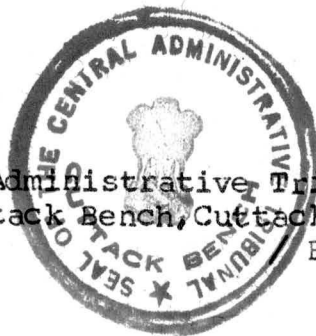
In regard to permanent absorption of casual mazdoors there have been several judgments of the Hon'ble Supreme Court viz. Bharatiya Dak Tar Mazdoor Sangh vs.

Union of India reported in AIR 1986 Supreme Court 2342, Surinder Singh vs. Union of India reported in AIR 1986 Supreme Court 584 and Inder Pal Jadav vs. Union of India reported in 1985(2) S.C.C. 643.

6. Since the facts constituted in O.A. No. 303 of 1988 are practically the same as that of the present case, we find no justifiable reason to take a different view. We therefore direct that the view expressed by the Hon'ble Supreme Court in the above mentioned judgments and the view expressed in the aforesaid original application be followed in strictest terms so far as the present case is concerned and accordingly benefit be given to the petitioners if they are found to be suitable.

7. Thus the application is accordingly disposed of leaving the parties to bear their own costs.

B. Sahoo
MEMBER (ADMINISTRATIVE)



Central Administrative Tribunal,
Cuttack Bench, Cuttack
B.K. Sahoo

B.K. Sahoo
15/7/92
VICE-CHAIRMAN