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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, :CUTTACK.

ORIGINAL APPLICATION NO: 134 OF 1990.

Date of decision: 24th October, 1990.

Jaya Majhi

Applicant

Versus

Union of India and another

Respondentss

For the applicant

M/s Devanand Misra,
Deepak Misra,
R.N.Naik,
A.Deo,
B.S.Tripathy,
Advocate

For the Respondents

Mr. T.Dalai, learned Additional
Standing Counsel (Central)

C O R A M:

THE HON'BLE MR. B.R.PATEL, VICE-CHAIRMAN

AND

THE HON'BLE MR. N.SENGUPTA, MEMBER (JUDICIAL)

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.

JUDGMENT

N.SENGUPTA, MEMBER (J),

The applicant has sought for a direction to regularise his services and to pay him arrears of salary.

2. The facts alleged by the applicant are that he was employed under Respondents No.2 i.e. Director, Central Poultry Breeding Farm, Bhubaneswar in 1984 as a Peon, his name was sponsored by the Employment Exchange. He worked as a Peon from the date he joined the post and on 1.10.1984 till 1.6.1986, thereafter he was not allowed to work. He made a representation after which Respondent No.2 on 22.8.86 appointed him (the applicant) as an unskilled casual labourer for a period of two months (vide Annexure-1). In pursuance of that order of appointment he reported to duty and he was engaged with intermittent breaks. He worked in the year 1988 for 250 days. But on 28.9.89 he was informed that his services were no longer required and he was not to come to the office. Making these allegations, the applicant has prayed for reliefs above-said. The Respondents in their counter have stated that the applicant worked for 9 days in 1984, 44 days in 1985, 210 days in 1986, 197 days in 1987, 220 days in 1988 and 111 days in 1989. Thus, the applicant in no year worked for more than 240 days at a stretch, therefore he cannot claim for regularisation. They have

N.Sengupta
24.10.90

also question^{ed} the jurisdiction of this Tribunal to entertain the application as a casual labourer does not hold any post. The Respondents have also averred that at no time the applicant was appointed as a Peon, therefore, his claim to be paid the salaries of a Peon is unfounded.

3. We have heard Mr. Deepak Misra learned Counsel for the applicant and Mr. T. Dalai learned Standing Counsel (Central) for the Respondents and have gone through the averments in the application and the counter and also the Annexures made to the application. Though, the applicant has averred that he was appointed as a Peon in 1984, he has not filed any document in support of such assertion, the only document that has been filed by the applicant is Annexure-1 which is a copy of an offer of work as a unskilled casual labourer at the rate of Rs. 9.25p per day. As the Respondents have denied the appointment of the applicant as a Peon and their specific case is that the applicant was employed for casual work such as cleaning of Farm premises etc., it is difficult to accept the case of the applicant that he was really appointed as a Peon. However, the ~~means~~ ^{remains} facts meant that he was employed to do the job which a class-IV Government servant is required to do, this is said because in many offices and establishment, the posts of Sweeper for cleaning of premises exist. It is now settled that payment to such workers is to be made pro rata basis at the rate of the minimum of the scale of pay prescribed for a class-IV Government servant

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This application was filed on 20.4.90. Though the applicant has stated in para -4(c) that he made a representation for extension of his employment after 1.6.1986, no copy of such representation has been filed and in para -7 of the counter the Respondents have denied the allegations made in para-4(c) to the application. Thus, the applicant cannot be granted any relief with regard to payment of wages for the period ~~beyond one year prior~~ ^{up to 20.4.1980. i.e. prior to 20.4.89.}

4. In view of the reasons mentioned above, and in consonance with the series of decision of the Hon'ble Supreme Court and this Tribunal, the Respondents are directed to prepare a scheme for absorption of Casual labourers including the applicant and absorb them in order of their seniority and having regard to the availability of work. The applicant should be paid the difference between the amount he ought to have been paid on prorata basis at the rate of the minimum of the scale of pay of a Class-IV Government servant and the payment actually be made for days he worked on or after 20th April, 1989. The payment should be made within two months hence. This Case is accordingly disposed of. No costs.

Bimal
..... 24.10.90
VICE-CHAIRMAN



Neelam
..... 24.10.90
MEMBER (JUDICIAL)

Central Administrative Tribunal,
Cuttack Bench, Cuttack/K.Mohanty.