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ORIGINAL APPLICATION No.30 of 1990.

Date of decision : May 1st., 1992.

Binayak Panda ... Applicant.

Versus,

Union of India & Ors.... Respondents.

For the Applicant:- M/s. Deepak Misra,
A. Deo,
B.S. Tripathy,
R.N. Naik, Advocates.

For the Respondents:-~~xxx~~ Mr.L.Mohapatra,
Standing Counsel.

C O R A M :

THE HONOURABLE MR. K. P. ACHARYA, VICE-CHAIRMAN.

A N D

THE HONOURABLE MR. C. S. PANDEY, MEMBER (ADMINISTRATIVE)

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1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ? *NO*
3. Whether Their Lordships wish to see the fair copy of the Judgment ?

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J U D G M E N T .

K.P.Acharya, Vice-Chairman.

In this application Under section 19 of the Administrative Tribunals Acts, 1985, the petitioner prays for a direction to be issued to the Opp. Parties to regularise the service of the petitioner.

2. According to the petitioner he worked as a Sub-TTE-Porter on the casual basic since 11th July, 1973. The petitioner not having been regularised as yet, this application has been filed with the aforesaid prayer.

3. In the counter the Opp. Parties maintain that as a matter of fact the petitioner was ~~again appointed~~ ^{appointed} as substitute T.T.E. Porter on casual basic since 11.6.1980 and therefore ^{he} is not entitled to be regularised.

4. We have heard Mr. R.N. Naik, learned counsel for the petitioner and Mr. L. Mohapatra, learned standing counsel appearing for the Opp. Parties. Though Mr. Naik emphatically submitted that the petitioner has worked since 11.7.73, this submission was strenuously opposed by Mr. L. Mohapatra stating that the petitioner had never worked with effect from 11.7.73 and absolutely no documentary evidence having been filed by the petitioner to substantiate his case, in no circumstances his case should be accepted and the petition ~~xx~~ should be ~~considered~~ straight away dismissed. Mr. Mohapatra also relied upon Annexure-R/3 dtd. 10.10.79 in which it is stated that

substitutes who have been screened and empanelled in the year 1977, taking into consideration the total service rendered by them earlier to 31.12.74 should be given first priority, and when substitute of the above category are not readily available, second preference may be given to such of the substitutes who have not been screened and have been engaged subsequently strictly according to seniority and no rank outsiders should be utilised as substitute/casual labour other than those enumerated ~~above~~ above. This administrative instructions ^{is contained} ~~contained~~ in Annexure-^{R/ which} 3, has no force of law like ~~that of~~ ^{that of} ~~thereof~~ a circular issued by the Board. Mr. Naik drew out attention to Annexure-R/5 which is a statement taken from the ~~app~~ muster roll. Therein, from 1972 to 1978 it is stated that Muster Rolls are ^{not i} ~~readily~~ available and it is indicated in Col. No. 6 that the petitioner did not work. Against the ^{year} ~~order~~ 1979 it is mentioned that the petitioner had worked. The fact that the petitioner had been screened in the year 1980 and was found to be suitable for the post of Class-IV is not disputed before us. In such circumstances we are of opinion that having been found to be suitable and keeping in view of the longer services ^{ed} ~~render~~ by the petitioner we would direct to regularise ^{him in} ~~the~~ post of Class-IV ~~post~~ according to seniority.

5. ~~xx~~ This case accordingly disposed of and there would be no order as to cost.

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Member (Administrative)

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Vice-Chairman.

