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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO: 391 OF 1990.

Date of decision: 11th February, 1992.

Natabar Das : Petitioner.

Versus

Union of India and others & Opposite Parties

For the applicant : Ms. S.L. Patnaik, R. O.N. Ghosh,
Advocates.

For the Respondents : Mr. A.K. Misra, Standing Counsel

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CORAM:

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

AND

THE HON'BLE MISS. USHA SAVARA, MEMBER (ADMN.)

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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? ~~for~~ No'
3. Whether Their Lordships wish to see the fair copy of the judgment? Yes.

J U D G M E N T

K.P. ACHARYA, V.C. In this application under section 19 of the Administrative Tribunals Act, 1985, the Petitioner prays for regularisation of his services as a Driver.

2. Shortly stated, the case of the Petitioner is that he was engaged as a Driver on casual basis to drive a jeep allotted to the Superintendent of Post Offices, Cuttack South Division, Cuttack. In order to make a regular appointment, the employment exchange of three different sub divisions in the District of Cuttack were asked to sponsor the names. The employment exchange sponsored certain candidates including the present petitioner. Their cases have been considered and since none were found to be suitable, no appointment was made. The grievance of the Petitioner is that he has enough experience which should have heavily counted over the appointing authority and he should have been found suitable for appointment.

3. In their counter, the Opposite Parties maintain that the first DPC did not find any one eligible for the Post including the present applicant and in the succeeding DPC no members attended the DPC but Chairman alone opined that the Petitioner is suitable and therefore, opinion of the Chairman as a single Member of the Committee could not be acted upon. In such circumstances the case is devoid of merit and is liable to be dismissed.

4. We have heard Ms. S.L.Patnaik learned Counsel for the Petitioner and Mr. Aswini Kumar Misra learned Standing Counsel. We have gone through the pleadings of the parties and we have given our anxious consideration to the argument advanced at the Bar especially on the contention of Ms. Patnaik learned Counsel for the Petitioner, that the Petitioner has been working on daily wage basis for about 780 days and is still continuing in the said office. This fact is admitted in the counter at paragraphs 4 and 5. Therefore, we have no doubt regarding the absorption of the Petitioner that he had worked for 780 days till the filing of this application i.e. 25th October, 1990.

5. From the averment made in the counter, we have no doubt that the Petitioner is still working till today especially when a stay order had been issued in favour of the Petitioner in MA 463 of 1990. The Opposite Parties have also come up to vacate the stay order which forms subject matter of MA 413 of 1991. Ms. Patnaik has filed a xerox copy of the Office Memorandum being No.15-1/81 dated 24th November, 1988 issued by the Postmaster General, Orissa Circle, Bhubaneswar stating as follows

"Recruitment against the vacancies caused due to promotion, retirement etc. maybe made from amongst the drivers working on casual basis for morethan one years in accordance with the provisions of statutory recruitment Rules".

From 21st November, 1990^t till today the Petitioner has definetly worked for more number of days than 780 days

This has to go to the experience of the Petitioner. In view of the fact that the Petitioner has long served the Department and against whom there is no adverse report (as nothing mentioned in the counter) we are of opinion that the case of the Petitioner should be sympathetically considered by the Departmental authorities for regularisation of his services, especially in these hard days when a man is running from post to pillar to sustain his livelihood, the Petitioner should not be deprived of his bread and butter. From this angle the Competent authority should adjudicate the matter and if the Petitioner ^{is} found to be suitable his services should be regularised. It is further directed that the Petitioner shall continue on daily wage basis till the matter is regularised.

6. Thus, the O.A. 391 of 1990 and MA 431 of 91 are accordingly disposed of leaving the parties to bear their own costs.



K. Mohanty
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MEMBER (ADMINISTRATIVE)

K. Mohanty
11-2-92
.....
VICE CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack/K. Mohanty,
11.2.92.