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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 170 of 1991.

Date of decision :- 22nd. August, 1991.

Pradeep Kumar Sahoo ... Applicant.

Versus,

Union of India & Ors. ... Respondents.

For the applicant: Mr. Pratap Ch. Mohapatra, Advocate.

For the Respondents: Mr. L. Mohapatra, Addl. Standing
Counsel (Central).

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CORAM:

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

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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 His Lordship wishes 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 Act, the petitioner prays to direct the Opp. Party to give benefit of working days from 1.4.91 to 30.6.91 with salary including his name in Annexures 5 and 6.

2. Shortly stated, the case of the petitioner is that he was employed as Hot Weather Waterman for supplying water during the Summer Season at different stations in the year 1990. On receipt of certain false report the competent Authority ordered dis-engagement of the petitioner with effect from 14th. June, 1990. Hence this application has been filed with a prayer to command the Opp. Party to pay to the petitioner the due amount which he would have ordinarily earned during the summer season of 1991 and the further direction to the Opp. Party to regularise his services. So far as regularisation of service is concerned it was not pressed by Mr. Mohapatra, learned counsel for the petitioner and accordingly he confined this case for payment of wages for the Summer Season of 1991.

3. In their counter, the Opposite Parties maintain that disengagement of the petitioner with effect from 14.6.90 is just, legal and proper because he had fraudulently obtained this engagement by misrepresentation of facts and it is further more maintained that the petitioner is not entitled to

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any remuneration for the Summer season of the year 1991 on the principle 'No work no pay'. It is also maintained by the Opp. Parties, that the case being devoid of any merit, is liable to be dismissed.

4. I have heard Mr.P.C.Mohapatra, learned counsel for the petitioner and Mr.L.Mohapatra, learned standing counsel for the Railway Administration at some length. Mr.P.C.Mohapatra urged before me that for no fault on the part of the petitioner he was deprived of rendering services in the year 1991. The concerned authority took a very wrong view in the matter by holding that the petitioner had fraudulently obtained an engagement and even if the prior engagement was not correct, the petitioner should have been engaged because the prior engagement did not amount to any preferential treatment to the petitioner. In such circumstances wages for 1991 should be allowed infavour of the petitioner.

5. On the otherhand, it was vehemently urged by Mr.L.Mohapatra, learned standing counsel that there is no circumstances wages can be allowed to a particular person without rendering any work to the Railway Administration on the basis of the principles 'No work no pay' which still stands as a good law in the field and further more it was contended by Mr.Mohapatra, learned standing counsel that rightly the petitioner was ordered disengagement because

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' he has not come with clean hands'. According to the learned standing counsel the petitioner has made misrepresentation of facts in order to obtain engagement from Railway Administration. Therefore, rightly the services were terminated.

6. I have absolutely no dispute with Mr. Mohapatra, that the principle 'No work no pay' definitely stands as good law in the field of law. A particular individual in the society has no right to get any remuneration for any day without rendering services. Wage is always paid in lieu of the services rendered otherwise it would be charity. Courts cannot step in to direct any Administration to make charity. Therefore, I find no merit in the case put forward by the petitioner that he should be paid wages for the year 1991 as admittedly the petitioner has not rendered any services to the Railway Administration in the year 1991.

7. Of course, I cannot disagree with learned standing counsel that equity helps those who come with clean hands but that principle is to be made applicable to inpeculiar facts and circumstance of a case. At times poverty drives one self to such a situation and at times a particular person out of sheer disgust and desparate owing to starvation is forced to take recourse to such steps to obtain some service to sustain his livelihood and especially in these hard

days when many people in the society are starving and running from post to pillar for sustenance. That apart, from the counter I find that no records were available to come to a conclusion that the petitioner was engaged in the year 1978. If records are not available it is very difficult to either affirm or deny the case put-forth by the petitioner, and furthermore it cannot be said with utmost certainty that the petitioner has come up with a false story. In view of the dictum laid-down by the Supreme court in several cases that in a socialistic pattern of society efforts should be made by an organization and specially by a large organisation like the Railways to provide jobs to suitable persons. In such circumstances I hope and trust the appropriate authority would take a liberal view over the petitioner and engage him as a Hot Weather Water Man in Summer Season for the year 1992 and further more it was pressed by Mr. Mohapatra, learned counsel for the petitioner that the petitioner be engaged in any other casual work of the Railway Administration. The authorities may take notice of this fact and do the needful if possible. This application is disposed of accordingly. No cost.

I. Hossain
22.8.91.
Vice-Chairman.

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
I. Hossain / 22.8.91.