

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

Original Application No. 228 of 1992

Date of decision : August 20, 1993

Pratap Chandra Padhi ... Applicant

-Versus-

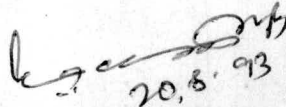
Union of India and others ... Respondents

(For instructions)

1. Whether it be referred to the reporters or not? No
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not? No

  
(H. RAJENDRA PRASAD)  
MEMBER (ADMINISTRATIVE)

20. Aug. 93

  
(K.P. ACHARYA)  
VICE CHAIRMAN

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Union of India and others ... Respondents

For the Applicant ... M/s. P.V.Ramdas, B.K. Panda,  
Advocates.

For the Respondents ... Mr.P.N.Mohapatra, Addl. Standing  
Counsel (Central).

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C O R A M:-

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

A N D

THE HONOURABLE MR.H.RAJENDRA PRASAD, MEMBER (ADMN.)  
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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 a direction to the Opposite Parties to regularise the services of the petitioner in a Group 'D' posts.

2. Shortly stated the case of the petitioner is that he was employed as Casual Mazdoor in the office of the Telecommunication Engineer at Balasore. The Petitioner was engaged as a casual mazdoor and continued as daily rated mazdoor till 1987. Petitioner remained absent from 11th September, 1989 to 12th July, 1990. Petitioner submitted his joining report on  
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12th July, 1990 and this was not accepted by the opposite parties. Being aggrieved by this action on the part of the concerned authority, this application has been filed with the aforesaid prayer.

3. In their counter, the Opposite Parties maintained that the case being devoid of merit is liable to be dismissed as the petitioner had voluntarily absented himself from duties and therefore, he has no right to urge to be regularised.

4. We have heard Mr. P.V. Ramdas learned counsel appearing for the petitioner and Mr. P.N. Mohapatra learned Additional Standing Counsel (Central).

5. At the outset, Mr. Ramdas learned counsel appearing for the petitioner did not very fairly press the prayer for regularisation especially because the consistent view taken by this Bench is not to allow this nature of prayer. The consistent view that we have taken is that the regular mazdoor working on casual basis should be enlisted according to their seniority and according to their seniority as and when vacancy arises after adjudicating their suitability appointment order should be issued. Of course here is a case where the petitioner had voluntarily absented himself from duty and therefore, we do not appreciate his conduct in absenting himself from duty, without giving necessary intimation to the concerned authority. Mr. Ramdas learned counsel appearing for the

the petitioner had placed before us the Medical certificate granted in favour of the petitioner contained in Annexure-R/2, in which it is stated that the petitioner was suffering from Spondilitic of This disease is not such a serious nature which could have prevented the petitioner from giving necessary intimation to the concerned authority. But in these hard days when many persons are going with begging bowls from post to pillar, we feel in the interest of justice, a sympathetic view should be taken over the petitioner. In such circumstances, we would direct that the joining report of the petitioner be accepted and he may be allowed to continue as a casual mazdoor. The seniority list of the Casual Mazdoors be prepared and according to their seniority and subject to adjudication of their suitability cases of such casual mazdoors <sup>including the petitioner</sup> be considered for appointment against the vacancies either existing or would occur in future.

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

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MEMBER (ADMINISTRATIVE)

20 AUG 93

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VICE-CHAIRMAN

Central Administrative Tribunal,  
Cuttack Bench, Cuttack/K. Mohanty/  
20. 8. 93.

