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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH;CUTTACK.

(11)

ORIGINAL APPLICATION NO. 205 OF 1992
Cuttack, this the 13th day of May, 1997

Birendra Kahali and another

....

Applicants

Vrs.

Union of India and others

....

Respondents

(FOR INSTRUCTIONS)

- 1) Whether it be referred to the Reporters or not? Yes .
- 2) Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No .

Jennath Sam
(S.SOM) 13.5.97
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH;CUTTACK.

(12)

ORIGINAL APPLICATION NO. 205 OF 1992
CUTTACK, THIS THE 13TH DAY OF MAY, 1997

CORAM:

HONOURABLE SRI S.SOM, VICE-CHAIRMAN

....

1. Biren Kahali, aged 27 years, son of Ali Kahali, At-Machhua Bazar, P.S-Mangalabag, P.O-Buxi Bazar, District-Cuttack-753001.
2. Madhab Barik, aged 29 years, son of late Sagar Barik, Village-Dasabati, P.O-Basudevpur, P.S/District-Puri

... Applicants

-versus-

1. Union of India, represented by the Secretary, Department of Posts, Dak Bhawan, New Delhi.
2. Chief Post Master General, Orissa Circle, At/P.O-Bhubaneswar, District-Puri.
3. Senior Post Master, Cuttack G.P.O, At/PO/District-Cuttack-753001

.... Respondents

Advocates for applicants - M/s R.N.Naik, A.Deo & B.S.Tripathy.
Advocate for respondents - Mr.Aswini Kr.Misra.

O R D E R

SOM, VICE-CHAIRMAN

The short facts of the applicants' case are that they are working as Watermen in Cuttack General Post Office on casual basis from 2.9.1980 and 1.5.1980 respectively. By order dated 29.3.1988 they are being paid on pro-rata basis at the minimum of the pay scale of the regularly employed workers of the corresponding grade with effect from 5.2.1986 along with D.A. and A.D.A., but without other allowances. In the present application, they have prayed for regularisation of their services from the dates of their initial appointment with all financial benefits.

Somnath Das
13.5.97

2. The respondents in their counter have submitted that the applicants cannot be regularised because there is no post of Waterman in the Cuttack General Post Office and because they are being engaged as contingent-paid labourers.

3. I have heard the learned lawyer for the applicant and the learned Senior Panel Counsel appearing on behalf of the respondents. It is submitted by the learned lawyer for the applicants that Hon'ble Supreme Court in the case of Daily Rated Casual Labour employed under P & T Department through Bharatiya Dak Tar Mazdoor Manch v. Union of India and others, AIR 1987 SC 2342, had directed the Posts & Telegraphs Department to prepare a scheme on a rational basis for absorbing as far as possible the casual labourers who have been continuously working for more than one year in the Department. It has been further submitted by the learned lawyer for the applicants that this decision of the Hon'ble Supreme Court has been referred to in the judgment delivered on 22.1.1993 by the Principal Bench of the Tribunal in O.A.No.1822/91 (Smt. Bhar Pal and others v. Union of India) and in accordance with the decision of the Hon'ble Supreme Court and the decision of the Principal Bench, the services of the applicants should be regularised. I had made a reference to the Principal Bench regarding O.A.No.1822/91 and from the reply received in letter dated 28.4.1997 from Deputy Registrar, Principal Bench, addressed to Registrar of Cuttack Bench, it is seen that OA No.1822/91 relates to some other subject and the parties are Dr.(Mrs.) Mridula Gupta v. Union of India and another and the date of decision is 6.4.1992. Obviously, the reference given by the learned lawyer for the applicants with regard to the decision of the Principal Bench is wrong. He had also filed a xerox copy of the judgment purportedly in O.A.No.1822/91, but in view of the reply of the Principal Bench about the names of the parties and the subject-matter of O.A.No.1822/91, it must be held that the reference given by the

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learned lawyer for the applicants is wrong and the copy of the judgment filed by him cannot, therefore, be relied upon. It has been submitted by the learned counsel appearing on behalf of the respondents that for regularisation of different categories of employees, the Department has specific instructions laying down interse priority for absorption of different categories of employees. In Director General, Posts, letter No.17-141/88-EDC & Training, dated the 6th June, 1988, printed at page 86 of Swamy's Compilation of Service Rules for Extra-Departmental Staff in Postal Department (6th Edition - 1995) it has been mentioned that according to the prevalent recruitment rules governing the cadre of Group 'D', the order of preference among various segments of eligible employees is as under;

- (a) Non-test category
- (b) ED employees
- (c) Casual labourers
- (d) Part-time casual labourers.

It is submitted by the learned counsel for the respondents that the applicants at best will come under third category, namely, casual labourers, and their chances of regularisation even against vacancies available in the cadre of Group 'D' would be rather slender. The Hon'ble Supreme Court in the case of Daily Rated Casual Labour Employed under P & T Department through Bharatiya Dak Tar Mazdoor Manch (supra) have directed the Posts and Telegraphs Department to prepare a scheme. The learned counsel for the respondents was not in a position to inform the Court if such a scheme has been drawn up for Orissa Circle and if the scheme is in operation. In consideration of the above, it is directed that if and when the scheme is prepared by the departmental authorities and the casual workers are regularised in accordance with the departmental rules and their suitability as also the terms of the scheme, the cases of the present applicants should be considered in their turn and subject to their suitability. The prayer in the present

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application to regularise the services of the applicants from the dates of their initial engagement in September 1980 and May 1980 cannot be allowed in view of the above discussion.

4. In the result, I hold that the application is without any merit and the same is rejected. No order as to costs.

Somnath Som
(S.SOM)
VICE-CHAIRMAN 13.5.97

Nayak, PS