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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.298 OF 1992
Cuttack this the 20th day of April, 1999

(PRONOUNCED IN THE OPEN COURT)

Jibesh Chandra Rath & Others

Applicants

-Versus-

union of India & Others

Respondents

(FOR INSTRUCTIONS)

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

(G.NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.298 OF 1992

Cuttack this the 20th day of April, 1999

CORAM:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
THE HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

...

1. Jibesh Chandra Rath,
aged about 28 years,
S/o. Fakir Charan Rath,
New Municipality Flat, Malisahi,
Unit-III, Bhubaneswar
2. Bobin Kumar Mohanty,
aged 29 years,
S/o. Pramod Chandra Mohanty
Plot No.676, Sahidnagar,
Bhubaneswar
3. Khirod Kumar Swain,
aged 29 years,
Son of Baidyanath Swain,
Silpashree, Rabi Talkies Road,
Bhubaneswar
4. Pravakar Dash,
aged 29 years,
Son of Bhagirathi Das,
Silpashree, Rabi Talkies Road,
Bhubaneswar
5. Prasanta Kumar Tripathy,
aged 29 years,
Son of Dolagobinda ripahy,
841, Ganganagar, Unit-VI,
Bhubaneswar

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Applicants

By the Advocates

:

M/s.M.M.Basu
D.Chakraborty
D.Dey, B.K.Ptra
P.M.Patnaik

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--Versus--

1. Union of India represented by
Secretary to Government of India,
Telecommunication Department,
New Delhi
2. Chief General Manager,
Telecommunications, Indira Gandhi Marg,
Bhubaneswar
3. Superintending Engineer, Civil Circle,
Telecom. Administrative Building,
Third Floor, Unit-ix, Bhubaneswar

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Respondents

By the Advocates : Mr. S.B. Jena,
Addl. Standing Counsel
(Central)

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ORDERMR. SOMNATH SOM, VICE-CHAIRMAN:

In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioners have prayed for ^a declaration that they having completed 240 days of continuous service within a span of one year, their services should be regularised. They have also prayed for quashing "Rules" at Annexure-5.

2. The case of the applicants is that they are qualified Graduate Civil Engineers from the Institute of Engineers, Calcutta and have registered their names in the local Employment Exchange. Executive Engineer, Telecom Civil Division, Bhubaneswar notified to the Employment Exchange for appointment of Junior Engineers (Civil) and accordingly on getting the list from the Employment Exchange, the Executive Engineer, working under Res. 2 and 3, asked the applicants to appear at an interview. After interview, the applicants have been engaged on daily wage basis at the rate of Rs. 69.00 for a

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period of 89 days. Accordingly the applicants joined in the Office of Respondent No.3 on daily wage basis for a period of 89 days and on completion of first phase of 89 days, i.e. from 29.6.1991 to 27.9.1991, they were called upon to continue and order to that effect was passed on 27.9.1991 allowing three days intermittent break, but during the break period the applicants had worked. Similarly, they were again re-appointed on 30.1.1992 and 4.4.1992 with intermittent break. Applicants have approached Res.3 to allow them to work regularly against the posts, but without any result. While they were working on daily wage basis, their daily wages have also been revised. As the applicants have not been regularised, they have come up in this Original Application with the prayers referred to earlier.

3. As regards their challenge to recruitment rules, it is not necessary to refer to these averments of the applicants, because Annexure-5 referred to in the prayer portion of the Original Application is not a rule, but an Office Order.

4. The respondents in their counter have opposed the prayer of the applicants on the ground that there is no rule which provides that the applicants are due to be regularised after completion of 240 days of service in a year. The applicants have been engaged temporarily on casual basis against the vacancies of 89 days till the regularly selected candidates are available. The posts are to be filled up on regular basis by an All India Competitive Examination or till the emergent work for which they have been engaged is completed. It is also submitted that the applicants have no right to

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regularisation, because they have not been properly selected. Further it is stated that the regular appointment to the post of Junior Engineers(Civil) is given through competitive examination conducted by the Department of Telecommunications. It is further submitted that there were 28 vacancies of Junior Engineers(Civil) and as the process of recruitment was time consuming and as there was massive building programme undertaken ~~in~~ by the Orissa Telecom Circle, for attending those emergent works, applicants along with others were given engagements on daily wage basis for a period of 89 days and such engagements continued from time to time. The Department of Telecommunications have forwarded 11 candidates, who have been selected on the basis of All India Competitive Examination held on 22.11.1991 for the year 1991 and appointment orders have been issued in their favour. As the appointment orders have been issued in favour of regularly selected candidates, the question of regularisation of services of the applicants does not arise. On the above grounds the respondents have opposed the prayer of the applicants.

5. The applicants in their rejoinder have reiterated their prayer on the ground that even after joining of these candidates, there are some more vacancies and the respondents have stated in the counter that some additional candidates selected through All India Examination are likely to join shortly. In view of this the applicants have reiterated their prayer as in the Original Application.

In this case, when the matter was called,

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learned counsel for the applicants did not appear nor any request made on his behalf seeking adjournment. Pleadings in this case have been completed long ago and on 15.3.1999 learned counsel for the applicants was also absent nor any request made on his behalf seeking adjournment. In view of this the matter was fixed to 25.3.1999 peremptorily and subsequently to to-day. To-day also there was no appearance of the learned counsel for the applicants. As this is a 1992 matter, it is not possible to drag the matter indefinitely. In view of this we have heard Shri S.B.Jena, learned Addl. Standing Counsel appearing for the respondents and have also perused the records.

6. From the appointment orders of the applicants which is at Annexure-2, it is clear that in this order itself it has been mentioned that regular appointment is made only by qualifying centralised examination and recruitment. It is also stated that the services of such persons appointed on 89 days basis can be terminable at any time without assigning any reason. The respondents have further pointed out that posts of Junior Engineer(Civil) are filled up through All India Competitive Examination conducted on centralised basis by the Department of Telecommunications. The applicants having been engaged locally cannot be regularised, because the posts are filled up through all India competitive examination. In view of this we hold that the prayer of the applicants for regularisation of their services is without any merit. As regards the prayer for quashing rules at Annexure-5, we have already held that Annexure-5 is not a rule, but only an Office Order. In view of this it is not necessary to consider further

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averments of the applicants with regard to quashing of Annexure-5. In the result we hold that the applicants have not been able to make out a case for any of the reliefs prayed for in this O.A. The Original Application is, therefore, held to be without any merit and the same is rejected, but without any order as to costs.

(G.NARASIMHAM)
MEMBER (JUDICIAL)

B.K.SAHOO

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

20.6.99