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**CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH:CUTTACK.**

**ORIGINAL APPLICATION NO.677 OF 1992.**

Cuttack, this the 24th day of June, 1997

Gandhi Swain ... ... APPLICANT.

-Versus-

Union of India & others ... RESPONDENTS.

**FOR INSTRUCTIONS.**

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

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
24.6.97

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**CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH: CUTTACK.**

**ORIGINAL APPLICATION NO.677 OF 1992.  
Cuttack, this the 24th day of June, 1997.**

**C O R A M:**

**HONOURABLE SRI SOMNATH SOM, VICE-CHAIRMAN.**

.....

Gandhi Swain,  
aged about 23 years,  
son of Mochia Swain  
at Dhumuchhai,  
PO-Tanarada,  
Bhanjanagar,  
Dist.Ganjam ...

Applicant.

Vrs.

1. Union of India, represented by  
the Comptroller & Auditor General of  
India, New Delhi.
2. Accountant General (Audit)-I, Orissa,  
At/P.O-Bhubaneswar,  
District-Puri.
3. Assistant Audit Officer, Record-I (AU),  
Office of the Accountant General,  
Orissa, At/P.O-Bhubaneswar,  
Dist.Puri. .... Respondents.

Advocates for applicant-

M/s.Devananda  
Misra, R.N.Naik,  
A.Deo,  
B.S.Tripathy, P.Pa-  
nda, D.K.Sahu.

Advocate for respondents -

Mr.Ashok Mohanty

*Somnath Som  
24.6.97*

**SOMNATH SOM, VICE-CHAIRMAN.**

**O R D E R**

In this application, the petitioner prays for  
regularisation of his services in the post of Peon or in any  
Group-D post under the respondents. He has also prayed for

a direction to the respondents to allow him to continue in the Department till regularisation of his services and his regular appointment in a Group-D post.

2. Short facts of the case, according to the application, are that the applicant has been working as a contingent worker in the office of respondent no.2 on monthly wage basis from April 1989 till 30.6.1992 as per the experience certificate given by respondent no.3 (Annexure-1). He claims that he has continued for more than 240 days in a year and therefore, his services should have been regularised and he should have been paid on pro-rata basis at the rate of minimum of the scale of pay of Group-D post plus D.A. on that amount.

3. Respondents in their counter have pointed out that the applicant has been engaged only seasonally as a contingent worker in 1989, 1990 and 1991 for watering the Khas Khas mats in the office. It has been further stated that from 1.8.1991 to 30.6.1992 he was again engaged as a contingent worker to carry out the wedding operation of old records in the office and to paste slips on the old records for the purpose of indexing and recording the date of destruction. On that basis, the respondents have denied that the applicant has been working under them from 1.4.1991 continuously and on monthly wage basis. It has been

*Yours M/SMS  
20.6.97*

submitted by the respondents that he was engaged as a daily rated casual worker paid out of contingency. No appointment order was ever issued to him, but payment was made to him at periodic intervals instead of paying him each day. On the above grounds, the respondents have contested the claim for regularisation of services of the applicant in a Group-D post.

4.I have perused the record and have also heard Sri B.S.Tripathy, the learned lawyer for the applicant, and Sri Ashok Mohanty, the learned Senior Standing Counsel appearing on behalf of the respondents.

5.From Annexure-1 to the application submitted by the applicant himself, it is seen that in 1989, 1990 and 1991 he was engaged for three to four months during summer months and for the other work referred to earlier, he was engaged in 1991 from 1.8.1991 to 31.12.1991 and in 1992 from 1.1.1992 to 30.6.1992. In none of the years, he has put in 240 days of work and therefore, his prayer for regularisation in Group-D post must fail. It is also urged by the respondents that the applicant was paid from contingency and no appointment order was issued to him for the engagements on the dates mentioned in Annexure-1. Therefore, it cannot be held that he is doing the same work as regular Group-D employees in the office of respondent

*Somnath Jais  
24.6.92*

no.2. In view of this, he cannot claim to get paid on pro-rata basis. The learned lawyer for the applicant submitted that the very fact that the petitioner has been engaged year after year during the summer months as a contingent worker and thereafter for the other type of work referred to earlier shows that he is a reliable and good worker and that is why the respondents have been engaging him every year. There is some force in this contention. In view of this, while dismissing the application, I direct that in case there is work for contingent workers during the summer months or in other time, the respondents should consider engaging the applicant, as in the previous years, along with similarly placed individuals.

6. With the above observation, the Original Application is disposed of. There shall be no order as to costs.

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN. 24.6.97