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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 82 OF 1992
Cuttack, this the 13th day of May, 1997

CORAM:

HONOURABLE SRI S.SOM, VICE-CHAIRMAN

...

1. Pramod Kumar Pradhan,
aged about 30 years,
son of Judhistir Pradhan,
village-Kainshir, P.O-Shankarama,
Via-Remed, Dist.Sambalpur
2. Sew Kumar Saraf,
Care of U.C.Saraf,
At-Barabazar (Sunaripara),
PO-Khetrajpur, Dist.Sambalpur
3. Balakrishna Barik, aged 24 years,
son of Dandapani Barik
4. Panchanan Sahu, aged 25 years,
son of Bhagirathi Sahu
5. Kartika Munda, aged 30 years
6. Shankar Kumbhar,
At-Akodapada, P.O-Budharaja,
(G.M.College Road), Town & District-Sambalpur
7. Nilambar Sahoo, aged 25 years,
son of late Bishi Sahoo,
At/PO-Modipara Chouk,
Town/District-Sambalpur

Applicants 1, 2, 3 and 6 are working as
Mazdoors and Applicants 4,5 and 7 are working as
Coolies in the office of the Superintendent,
Postal Stores Depot, At/PO & District-Sambalpur ... Applicants

-versus-

Journals Jms.
13.5.97

1. Union of India, represented by its Secretary,
Department of Posts, Dak Bhawan, New Delhi
2. Chief Post Master General, Orissa Circle,
At/PO-Bhubaneswar, District-Puri
3. Post Master General, Sambalpur Region,
At/PO/Dist. Sambalpur
4. Superintendent, Postal Stores Depot,
At/PO & District-Sambalpur

Advocates for applicants - Respondents
M/s Devanand Misra, A.Deo,
B.S.Tripathy & P.Panda.

Advocate for respondents - Mr.Ashok Misra, Sr.Panel
Counsel.

O R D E R

M. VICE-CHAIRMAN In this application under Section 19 of the Administrative Tribunals Act, 1985, the seven applicants, who were working as Mazdoors and Coolies in the office of respondent no.4 from 1988, have sought for directions to the respondents to regularise their services, to give them appointment to Group 'D' posts which are lying vacant and to pay them wages on pro rata basis.

2. The admitted facts are that in order dated 13.1.1988, vide Annexure-I to the application and Annexure-R-II to the counter, the seven applicants were engaged as Mazdoors and Coolies under respondent no.4 in January 1988. They have been working till date since the date of their joining. The applicants' case is that they have worked for more than 206 days in 1988, 1989, 1990 and 1991 lying vacant under respondent no.4 against Group 'D' posts/and therefore, their services should be regularised. The respondents in their counter have pointed out that the applicants were selected as Casual Labourers/Coolies through Employment Exchange. In their order of engagement dated 13.1.1988, it has been mentioned clearly that their services will be terminated before completion of 206 days in two consecutive years. It has also been laid down that they should not claim regular absorption in Group 'D' cadre and further that their engagement is subject to termination at any time without notice.

3. The respondents in paragraph 4 of the counter have indicated the number of days the applicants have worked in the five years during 1987-88, 1988-89, 1989-90 and 1990-91 and 1991-92. It is not necessary to give the details of the engagement of each of the applicants in these five years as mentioned in this paragraph of the counter. It would suffice to say that according to the respondents, none of the applicants has completed 206 days of work in two consecutive years and on that ground, the respondents have opposed their

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regularisation and absorption in Group 'D' posts.

4. Before proceeding further in the matter, it is necessary to mention that in course of the hearing of the matter, the learned Senior Counsel brought to my notice the memorandum filed on behalf of the respondents on 29.8.1994 along with two orders in which applicant nos. 1 and 5 have been absorbed in regular Group 'D' posts under Deputy Director of Accounts (Postal), Cuttack, in May 1994. From this it appears that these two applicants have already been regularised and nothing further remains to be done in their case. In this memorandum, it is submitted on behalf of the respondents that these two applicants belong to Scheduled Tribe and they have been absorbed against Scheduled Tribe vacancies in Group 'D' posts. It is further submitted that the other applicants ~~maxm~~ belong to the general ~~xxix~~ category and therefore, they cannot be absorbed against the ^{seem} Scheduled Tribe vacancies. It would from this memorandum that the existing vacancies are all for Scheduled Tribe category. It has further been stated in this memorandum dated 29.8.1994 that all other applicants have already been granted temporary status. This would mean that these five applicants are being paid on pro rata basis at the minimum of the corresponding pay scale of Group 'D' employees plus dearness allowance. Therefore, in respect of them also, one of the prayers has already been met. As regards the prayer of the other five applicants for being absorbed against regular Group 'D' posts, they will have to wait for their turn and they can claim absorption only against the general category of posts, because according to the respondents these five applicants belong to the general category. Granting of temporary status is the first step towards regularisation. Once temporary status is granted, their services cannot be dispensed

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with except in case of proved misconduct. It is, therefore, ordered that the respondents should consider the cases of other five applicants in their turn and subject to their suitability for absorption against Group 'D' vacancies coming up in future. They should be given age relaxation, if required, to the extent of their service as casual labourers in the Department and their absorption should be done strictly in terms of the scheme of the Department. Their prayer for immediate absorption in Group 'D' cadre is, therefore, held to be without any merit.

5. In the result, therefore, the application is rejected in respect of applicant nos. 2, 3, 4, 6 and 7. There shall be no order as to costs.

Somnath Som
(S.SOM)
VICE-CHAIRMAN
13.5.97