

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.215 OF 1993

Cuttack, this the 19th day of October, 1999

Ramesh Chandra Bhoi and others Applicants

Vrs.

Indian Council of Agricultural Research

and another 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*

(G.NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
19.10.99

12

13

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.215 OF 1993

Cuttack, this the 19th day of October, 1999

CORAM:

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

...

1. Ramesh Chandra Bhoi, aged 39 years,
son of Kirtan Bhoi
 2. Arjuni Chandra Moharana, aged about 35 years,
son of Khetramohan Moharana.
 3. Khirod Chandra Bhoi, aged about 36 years,
son of Nilamani Bhoi
 4. Birakishore Sahoo, aged about 43 years,
son of Gajendraprasad Sahoo
 5. Pranakrushna Sahoo, aged about 39 years,
son of Lachhman Sahoo
 6. Brahmananda Swain, aged about 41 years,
son of Kasinath Swain
 7. Gouranga Charan Sahoo, aged about 36 years,
son of Gobardhan Sahoo
 8. Banshidhar Ojha, aged about 34 years,
son of Indramani Ojha
 9. Govinda Chandra Behera, aged about 36 years,
son of Nakula Behera
 10. Pitambar Parida, aged about 43 years,
son of Kasinath Parida
 11. Maheswar Sahu, aged about 35 years, s/o Banambar Sahu
 12. Nityananda Swain, aged about 40 years,
son of Ramachandra Swain
 13. Charan Naik, aged about 35 years, s/o Ananata Naik
- Applicant nos. 1 to 9 and 11 to 12 are S.S.I and applicant
nos. 10 and 13 are SS-II employees of CRRI at Bidyadharpur,
Cuttack-753 006

.....Applicants.

Advocates for applicants - M/s B.K.Patnaik
B.Satpathy

Vrs.

1. Indian Council of Agricultural Research,
represented by the Director General, Ananda Parbat,
New Delhi.
2. Central Rice Research Institute, represented by
the Director, At-Bidyadharpur, Cuttack-753 006

....Respondents

Advocate for respondents- Mr.Ashok M@shra.

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this Application under Section 19 of Administrative Tribunals Act, 1985, the thirteen petitioners have prayed for a direction to Director General, Indian Council of Agricultural Research (ICAR) (respondent no.1) and Director, Central Rice Research Institute (CRRI) (respondent no.2) to consider the cases of the petitioners for direct recruitment to the post of T-I ignoring the gradation list at Annexure-5. They have also prayed that the petitioners should not be considered for the above post along with fresh candidates who have applied from open market.

2. Facts of this case, according to the applicants, are that six of them were appointed as casual labourers in 1973 on weekly payment basis. They were not given any appointment letter nor any scale of pay. They were non-matriculantes at that time. The other applicants were appointed after 1973. By now they have completed about 20 years of service as field workers in different sections of CRRI, Cuttack.

S.Som.

Majority of them have in the meantime passed HSC Examination of Board of Secondary Education, Orissa. ICAR brought into force Technical Service Rules from 1.10.1975. Under Rule 3.1 post of T-I is the lowest rank amongst the technical service holders. Under Rule 7.1, 20% of the vacancies in the grade T-I shall be filled up by promotion of persons in the Supporting Services like the applicants and Rule 8.2 provides for direct recruitment to the balance 80% vacancies. The applicants have stated that in the circular dated 19.4.1993 the office of respondent no.2 invited applications from eligible Supporting Staff working at CRRI, Cuttack and its sub-stations at Hazaribagh and Kharagpur for some posts of T-I against the direct recruitment quota of 80%. The essential qualification was Matriculation with certificate in different specialities as mentioned in Annexure-1. The applicants had joined as casual workers in the rank of Supporting Staff, Grades I and II and were hopeful of getting absorbed as T-I by way of direct recruitment or promotion. All of them except applicant nos.7 and 8 are Matriculates. Though applicant nos.7 and 8 are non-matriculates, applicant no.8 has secured ITI Diploma as Welder. The applicants' grievance is that the respondents had issued a public advertisement in PRAJATANTRA, dated 21.6.1989 inviting applications from open market for the post of T-I. The applicants state that they have adequate experience of field work but if they are made to compete with direct recruits, then they will suffer in comparison with such direct recruits and will not be selected. In view of this, they have come up in this petition with the prayer referred to earlier.

S. Som.

15

16

3. The respondents in their counter have stated that in the circular dated 19.4.1993 applications were invited from supporting staff working at CRRI, Cuttack and sister Institutes at Hazaribagh and Kharagpur for filling up of the posts of T-I coming under direct recruitment quota against 80% of the vacancies. It was also indicated that those of the supporting staff who had already applied for the above posts, need not apply again as they will be issued with call letters to appear at the interview along with the candidates sponsored by the Employment Exchange for consideration. The present petitioners in this O.A. did not apply for the post of T-I in response to the notice dated 19.4.1993 but approached the Tribunal in this O.A. The relevant averment made by the respondents is quoted below:

".....Instead of taking the chance, they choose not to apply for the same on reasons best known to them and filed the present application only with an ulterior motive to delay the process."

J.J.M.

The respondents have stated that the posts of T-I have to be filled up in accordance with the Recruitment Rules and there is no provision in the Recruitment Rules to give preference to any category like the applicants. As regards regularisation of casual employees, the respondents have stated that casual employees are to be regularised in accordance with the Department of Personnel & Training's Office Memorandum dated 13.10.1983 circulated through ICAR's letter dated 17.2.1984. Besides, ICAR in their letter dated 24.6.1985 have directed that casual labourers should be regularised against Group-D posts in accordance with the above two circulars and the scheme. According to the respondents, the regularisation has to be done in Group-D

16

posts whereas T-I post comes under Group-C. The respondents have further stated that below the Technical Service there are Supporting Services in four grades: SS Grade-I, SS Grade-II, SS Grade-III and SS Grade-IV. Of these, SS Grade I is the lowest rank of Supporting Services. Recruitment/promotion to to the above Grade is regulated by the Recruitment Rules applicable to Group-D posts of ICAR. It is stated that applicant no.1 was first engaged as a casual labourer and was regularised as Group-D, SS Grade-I. As the applicants cannot be regularised against Group-C posts, the respondents have opposed the prayer of the applicants.

4. The applicants in their reply to the counter have reiterated their averments and the prayer made in the OA and it is not necessary to repeat the same.

5. We have heard Shri B.K.Patnaik, the learned counsel for the petitioners and Shri Ashok Mishra, the learned Panel Counsel for the respondents and have also perused the records.

6. It has been submitted by the learned counsel for the petitioners that the applicants are all working as SS Grade-I and Grade-II and they want appointment to the post of T-I. Their grievance is that they should not be considered along with fresh candidates. It is further submitted that the applicants have been working as casual labourers for 15/20 years and they have got adequate experience of the field work. They were regularised as SS Grade-I and Grade-II in the year 1991. The learned counsel for the petitioners has submitted and this has also been mentioned in paragraph 4.9 of the O.A. that every employee

S. Som.

17

should be entitled to at least one promotion in his service career and therefore it is submitted that the applicants should be considered for the post of T-I by getting the selection confined amongst the applicants and not making them compete along with fresh candidates.

18

7. We have considered the above submissions of the learned counsel for the petitioners carefully. The applicants started their engagement under CRRI, Cuttack, as casual labourers and they were regularised against Group-D posts of SS Grade-I and SS Grade-II in 1991. They cannot claim regularisation against Group-C posts. The Scheme for regularisation and the circulars provide for regularisation of casual workers against Group-D posts. So far as the appointment to the post of T-I is concerned, the well settled position of law is that any appointment to a post has to be made in accordance with the Recruitment Rules. For the post of T-I 20% is for promotional vacancies and the balance 80% is for direct recruitment. For direct recruitment the departmental authorities have called for applications from open market by paper advertisement. They have also invited applications from Supporting Staff through the circular dated 19.4.1993 at Annexure-1. If the applicants want to be considered against the direct recruitment quota, they have to apply for the post. Their grievance is that they should be considered against direct recruitment quota by adjudging their suitability independently without adjudging them along with fresh candidates from the open market. But even for this the petitioners have to make applications. The respondents have stated that the petitioners have not applied in response to the notice at Annexure-1.

J. Sam

It is not possible for the departmental authorities to consider them for the post of T-I when they have not applied for the same. They cannot be regularised in the post of T-I because as earlier noted they have already been regularised in Group-D posts, SS Grade-I and SS Grade-II and according to the Scheme and the circulars casual employees have to be regularised against Group-D posts only. Moreover, when 80% quota is meant for direct recruitment, the applicants cannot claim that they alone should be considered for the direct recruitment quota and fresh candidates cannot be considered. In any case, this prayer of the applicants cannot be considered because of their lapse in not applying for the posts in response to the notice at Annexure-1.

8. In the result, therefore, we hold that the application is without any merit and the same is rejected but, under the circumstances, without any order as to costs.

(G.NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN
17.10.99