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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 258 OF 1993
Cuttack, this the 9th day of May, 1997

SUNIL CHANDRA DAS

.....

APPLICANT

VRS.

UNION OF INDIA & ORS

.....

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

Soninath Sam,
(S.SOM) 9-5-97
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 258 OF 1993

(Cuttack, this the 9th day of May, 1997)

CORAM:

HONOURABLE SRI S.SOM, VICE-CHAIRMAN

....
Sunil Chandra Das, aged about 25 years,
son of Dharani Chandra Das, At-Nimichipatna,
PO-Angarapada, PS-Chandaka, Dist.Puri,
at present care of Srimanta Das,
Christian Sahi, Chandi Road,
Town,P.O & District-Cuttack

....

Applicant.

Vrs.

1. Union of India, represented by its
Secretary, Press Information Bureau,
Dr.Rajendra Prasad Road,
Shastri Bhavan, New Delhi-1.

2. Deputy Principal Information Officer,
Press Information Bureau,
Old Secretariat,
At/PO/Dist.Cuttack.

3. Assistant Information Officer,
Press Information Bureau,
Old Secretariat, At/PO/Dist-Cuttack

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Respondents

Advocates for applicant - M/s Devananda Misra,
R.N.Naik,A.Deo,
B.S.Tripathy,P.Panda &
D.K.Sahu.

Advocate for respondents - Mr.Ashok Mohanty.

ORDER

SOM, VICE-CHAIRMAN

In this application under Section 19 of the Administrative

Tribunals Act, 1985, the applicant has prayed for a direction to the respondents for regularising his services in a Group 'D' post and to give him engagement as casual employee till such order of regularisation is issued.

*transmitted
9.5.97*

2. Facts of this case fall within a small compass and can be briefly stated. According to the applicant, he had served in the office of respondent no.2 for a considerable length of time

in 1991 and 1992. But after 22.2.1992 he was not allowed to work though the work was available. The applicant has submitted that according to a series of decisions of the Hon'ble Supreme Court, services of casual workers should be regularised and accordingly, he has come up with a prayer for regularisation of his services.

3. The respondents in their counter have said that the applicant was engaged as a daily labourer only for 92 days in 1991 (from 18.3.1991 to 31.7.1991) and for 33 days in 1992 (from 17.1.1992 to 6.3.1992) except on Sundays and other Government holidays, because of temporary absence of Group 'D' staff when such staff went on leave. He was engaged on daily wage basis and therefore, his services cannot be regularised as he had not worked for 240 days each year for two consecutive years or 206 days in case of offices observing five-day week. There is no averment on record whether the respondents' offices work for five days or six days a week. The respondents have annexed to the counter the relevant instructions regarding regularisation of services of casual workers issued by the Department of Personnel & Training and the Ministry of Finance, and they have stated that according to these instructions, the applicant cannot be absorbed in a Group 'D' post.

4. I have considered the submissions of the learned lawyer for the applicant and the learned Senior Standing Counsel appearing on behalf of the respondents and looked into the materials on record. From Annexure-1 filed by the applicant along with his application, it is seen that he was engaged on 18.3.1991 on daily wage basis at Rs.25/- per day upto April 26, 1991 in place of one B.C.Nayak who was on duty of Chowkidar. Again vide Annexure-2 he was continued till 28.6.1991 for sprinkling water in the Khas-Khas hung in front of verandah of the office premises. From this, it appears that the engagement of the applicant was casual and seasonal in nature.

*Sumant Jaiswal
9.5.97*

The applicant has not indicated about length of his service under the respondents nor has he produced any document in support of his contention that he worked for a considerable length of time. Therefore, I have to go by the submissions of the respondents that he had worked only for 92 days in the year 1991 and for 33 days in the year 1992 on the dates mentioned earlier in this order. His engagement being casual and seasonal in nature and need for such engagement having arisen only when the regular incumbents went on leave, his services cannot be regularised. He has also not worked for 240 days or 206 days either in 1991 or in 1992. It is no doubt true that the Hon'ble Supreme Court in a series of cases have directed that wherever vacant posts are available in the department, such casual workers, who have been working for long against such vacant posts by getting daily wage, should be regularised and till such time they should get 1/30th of the pay at the minimum of the relevant pay scale plus dearness allowance for work of eight hours a day. In this case, the applicant has not stated in his application that there are vacancies available in Group 'D' posts under the respondents, nor was his name forwarded by the Employment Exchange when he was given engagement on daily wage basis. Hon'ble Supreme Court in the case of State of Haryana and others v. Piara Singh and others, AIR 1992 SC 2130, have held that regularisation can be considered only against a vacant post. The applicant not having mentioned anything about any vacant post, his prayer also fails on this ground. As the applicant has ceased to work under the respondents as long back as in 1992, it is not possible to give a direction to the respondents to provide him with engagement now. His prayer to this effect is also bound to fail.

*Janmabhoomi
9.5.97*

5. In consideration of the above, I hold that the

application is without any merit and the same is rejected, but under the circumstances, without any order as to costs.

Sonmath Som
(S.SOM)
VICE-CHAIRMAN 9.5.97

ak,PS