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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 284 OF 1993
Cuttack, this the 30th day of May, 1997

BIJAYA KUMAR BISWAL & OTHERS

....

APPLICANTS

Vrs.

UNION OF INDIA & OTHERS

....

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.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
16/5/97

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 284 OF 1993
Cuttack, this the 30th day of May, 1997

CORAM:

HONOURABLE SRI SOMNATH SOM, VICE-CHAIRMAN

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1. Bijaya Kumar Biswal, aged about 28 years, son of Sidheswar Biswal of village-Dulipata, PO-Olaesingh, PS-Jankia, Dist.Khurda.
2. Susim Kumar Mandal, aged about 27 years, s/o late Jatan Kumar Mandal of Village-Balkuli, PO-Balkuli, P.S-Panjila, Dist.Howrah(W.B.)
3. Santosh Kumar Parida, aged about 24 years, son of Madhava Kumar Parida of village-Badasahara, PO-Badasahara, PS-Fategarh, Dist.Nayagarh

....Applicants.

-versus-

1. Union of India, represented through Secretary to Government of India, Ministry of Home Affairs, Department of Home, New Delhi.
2. Director General, Central Reserve Police Force, New Delhi.
3. Additional Deputy Inspector General Police, Central Research Police Force, Group Centre, Nayapalli, Bhubaneswar.
4. Kabinder Nath Nayak, village:Muturia, PO-Vandisahi, Via-Nuagaon, Dist.Puri.
5. K.B.Rao(Mali), 114 B.N., C.R.P.F., Bhubaneswar, Dist. Khurda.
6. Prahallad Jena (Mali), Force No.913148315, 114 B.N., C.R.P.F., Bhubaneswar, Dist. Khurda

....Respondents

Advocates for applicants - M/s B.Mohapatra, R.K.Behera, S.P. Misra, P.K.Misra & P.K.Das.

Advocate for respondents - Mr.Akhaya Kumar Mishra.

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*Somnath Som
30.5.97*

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

Prayer of the three applicants in this application under Section 19 of the Administrative Tribunals Act, 1985, is for declaring the applicants as permanent employees against regular posts available under respondent no. 3 and for a direction to respondent no. 3 to pay all financial benefits and also to declare, on regularisation of their services, applicant nos. 1 and 2 as senior to respondent no. 4 and applicant no. 3 as senior to respondent nos. 5 and 6.

2. In this application of 1993 counter has been filed on 1.12.1993, but the matter was not taken up after 5.5.1994 till 1.5.1997. Learned counsel for the applicants was absent on 1.5.1997 and 9.5.1997. The matter was posted for peremptory hearing on 19.5.1997 on which day also the learned lawyer for the applicants was absent. As such, the matter was heard in the absence of the learned lawyers for the applicants and hearing was concluded giving opportunity to the learned lawyer for the applicants to file written submissions by 27.5.1997. On 27.5.1997 the matter was taken up. Learned counsel for the applicants was absent nor did he file any written submission. No request was also made asking for time to file written submission. As this matter has been pending for years after completion of the pleadings, the matter is taken up for final disposal.

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30.5.97*

3. Facts of this case, according to the applicants, are that applicant nos. 1 and 2 joined as contingent paid Malis under respondent no. 3 on 1.8.1988 and applicant no. 3 joined as such on 7.12.1989. They have stated that till date they have

been working as such, but after 31.12.1992, i.e., from 1.1.1993 they have not been allowed to sign the Attendance Register.

On enquiry from Mali-in-charge, Group Centre, C.R.P.F., Bhubaneswar, the applicants learnt that their names have been struck off the Attendance Register. They claim that initially they were not paid any wages for the month of December, 1992, which ultimately were paid to them on their repeated requests on 25/26.1.1993. The applicants claim that they have worked continuously under respondent no.3, five years for applicant nos. 1 and 2 and four years for applicant no.3 by 31.12.1992 and, therefore, they should be regularised. They have stated that respondent nos.4,5 and 6 were engaged as contingent paid workers after them, but they have in the meantime been regularised along with one Sarat Chandra Barik, who later on resigned from the service of C.R.P.F. On the above grounds, they have asked for the relief referred to earlier.

4. Respondents in their counter have taken the stand that these three applicants were contingent paid Malis and their services were utilised on daily wage basis till 31.12.1992.

After that, their services were no longer required and they were not engaged any further. According to the respondents, it is not correct that the applicants have been working till date.

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The respondents have admitted that the applicants were engaged on being sponsored by the Employment Exchange, Bhubaneswar. But according to the respondents, their wages were paid from the funds of C.P.W.D. as the horticultural work in C.R.P.F. Campus is taken up under the instructions of C.P.W.D. though payments are made by respondent no.3. The respondents have further submitted that

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in the C.R.P.F. there are posts of Constable(Mali), but for appointment to those posts, persons must have minimum educational qualification of Matriculation and certain physical standards like height, weight, width of chest (normal and expanded). It has been submitted by the respondents that the applicants do not have the minimum educational qualification as also the physical standards. They have also taken the stand that the applicants are asking for regularisation in the posts of Constable (Mali). An appointment to the post of Constable in a paramilitary organisation is beyond the jurisdiction of the Tribunal. The rival contentions of the parties are taken up in the context of the prayers made by the applicants. It is clear from the rival submissions of the parties that the applicants worked till 31.12.1992 as daily wage workers paid from contingency and they were disengaged from 1.1.1993. Therefore, the plea that they are still continuing as contingent paid daily wage workers till the date of filing of the application cannot be believed and the prayer for paying them their wages from 1.1.1993 till date is without any basis and is rejected.

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5. The other prayer is about their regularisation and granting of seniority over respondent nos.4, 5 and 6. According to the official respondents, for the post of Constable minimum educational qualification is Matriculation and from Annexures filed by the applicants, it is found that the educational qualification of applicant nos. 1 and 3 is Class IX pass. They, therefore, do not have the minimum educational qualification.

No details have been given with regard to applicant no.2 in this respect. It is also seen from the details given by applicant nos. 1 and 3 that they do not have some of the necessary minimum physical standards. In any case, as they have been disengaged with effect from 31.12. 1992, there cannot be any question of their regularisation as Constable (Mali), moreso when they do not have the minimum educational and other qualifications. The official respondents have also claimed that respondent no.4 and Sarat Chandra Barik have not been regularised and they are also continuing as contingent paid staff engaged purely on temporary basis. They have further submitted in paragraph 15 of the counter that respondent nos.5 and 6 have not been appointed by them. In view of this, the question of regularising the services of the applicants and declaring them senior to respondent nos.4,5 and 6 in the manner prayed for by the applicants cannot be agreed to. After all, the applicants worked as daily wage workers not continuously according to the respondents but with certain breaks though the details of breaks have not been indicated in the counter and Annexure-A to the counter though referred to in the body of the counter has not actually been filed. In consideration of the above, it is held that the prayer of the applicants for regularisation and for declaring them senior to respondent nos. 4,5 and 6 is without any merit and is rejected.

6. In the result, therefore, it is held that the application is without any merit and the same is rejected, but, in the circumstances, without any order as to costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
30/9/97