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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.322 OF 1993

Cuttack, this the 7th day of November, 1997

N.Gangadhar Reddy

Applicant.

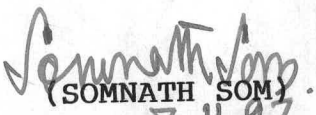
Vrs.

Union of India and 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)
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.322 OF 1993
Cuttack, this the 7th day November, 1997

CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN

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N.Gangadhar Reddy, aged about 37 years,
son of N.Gobinda, At-Mali Jagannathpur,
PO-Kalyanpur, District-Ganjam ...

Applicant.

Advocates for applicant -

M/s B.S.Tripathy &
B.K.Rath.

Vrs.

- 1) Union of India, represented
by its General Manager,
South Eastern Railway,
Garden Reach,
Calcutta, West Bengal.
- 2) Divisional Railway Manager,
South Eastern Railway,
Khurda Road,
PO-Jatni,
District-Khurda.
- 3) Senior Divisional Operating Manager,
(Previously Divisional Operating Superintendent),
Office of the Divisional Railway Manager,
S.E.Railway,
At-Khurda Road,
PO-Jatni, District-Khurda ...

Respondents.

Advocates for respondents -

M/s B.Pal &
O.N.Ghosh.

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this application under Section 19 of Administrative
Tribunals Act, 1985, the petitioner has prayed for a direction to

the respondents to take him back in the post of Token Porter and provide him work in leave vacancy. There is also a prayer for directing the respondents to absorb the applicant on regular basis when a regular vacancy arises.

2. Facts of this case, according to the application, are that the applicant was appointed as a Token Porter in 1978 and he worked for 1121 days till 16.7.1990. During this period he was allowed to work as Token Porter on substitute basis in leave vacancy. Applicant states that he was given assurance that when regular vacancy arises he would be absorbed in regular post. On 16.7.1990 respondent no.3 passed orders indicating that the applicant's services were no longer required. Against this order, the applicant filed OA No.405 of 1990 which was disposed of in order dated 10.7.1992. The operative portion of the order is quoted below:

"....We would direct the petitioner to meet the Senior DOS, Khurda Road with a representation and personally lay his grievance before the said authority. We very much hope the authority would take a sympathetic view over the petitioner."

In pursuance of the above direction, the applicant filed a representation, copy of which is at Annexure-2. Another representation was filed by him at Annexure-3. S.E.Railway Mens Congress also took up the matter as it appears from the letter at Annexure-4. But no orders were passed on the representation

Jonny A. J.
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according to the applicant and that is why he has come up with the prayers referred to earlier.

3. Respondents in their counter have pointed out that the petitioner made an application before Assistant Operating Superintendent, Khurda Road, on 2.7.1986, in which he averred that he was working as substitute Token Porter under Chief D.T.I., Khurda Road, since 1978 though he did not work at Khurda Road during that period. He also arranged a forged recommendation allegedly from Chief D.T.I., Khurda Road. His services were utilised on the basis of such forged recommendation. Subsequently, on the basis of vigilance report, his services were dispensed with. His case was looked into by the Vigilance Department and was submitted to the Chief Vigilance Officer, S.E.Railway, Garden Reach and on the basis of their report, the services of the applicant were terminated. For the above reasons, the respondents have opposed the prayers of the applicant.

4. I have heard the learned lawyer for the applicant and the learned counsel appearing on behalf of the respondents and have also perused the recors.

5. I find from the records of O.A.No. 405 of 1990 that in that application the prayers made were identical to the first prayer made in the present application. That prayer in OA

Somnath Som
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No.405/90 having been disposed of in the order quoted above, this prayer does not survive and the applicant cannot agitate the same grounds in the present application. The order of the Tribunal in OA No. 405 of 1990 was to the respondents to consider and dispose of his representation. The applicant states that his representation has not been disposed of. In case the representation is pending, the respondents should communicate their orders on the representation to the applicant within a period of 90 (ninety) days from the date of receipt of copy of this order. As the applicant is no longer in service, his second prayer for regularisation of his services is without any merit. He was in any case working on daily wage basis during leave vacancy. He has not come through Employment Exchange or through any process of selection. As such, his services cannot be regularised and his second prayer is without any merit and is rejected.

6. In the result, therefore, the application is disposed of in terms of the observation and direction given in paragraph 5 of this order. No costs.

Somnath Som
(SOMNATH SOM)
7.11.93
VICE-CHAIRMAN