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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 523 OF 1993

Cuttack, this the 12th day of May, 1997

CORAM:

HONOURABLE SRI S.SOM, VICE-CHAIRMAN

Sri Surendra Kumar Mallik
S/o Babaji Mallik
of village-Phogala,
PO-Kood, Dist. Cuttack

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Applicant

Vrs.

1. Union of India,
represented through the Secretary,
Department of Post & Telegraph,
Dak Bhawan,
New Delhi.
2. Chief General Manager,
Telecom Department,
Bhubaneswar.
3. Telecom District Manager,
Cuttack.
4. Divisional Engineer, Telegraph,
Cuttack

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Respondents

Advocates for applicant - M/s A.R.Dash, S.Acharya &
N.Lenka.

Advocate for respondents- Mr.Ashok Misra, Sr.S.C
Mr.Akshaya Ku.Misra.

ORDER

S.SOM, VICE-CHAIRMAN

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for his absorption in any regular vacant post under the respondents. He has also prayed for a direction to the respondents to continue him in service with all pecuniary benefits till his absorption. The facts of this case fall within a small compass and can be briefly stated.

2. According to the applicant, he was engaged as a casual

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 mazdoor in January 1981 in Telecommunication Office at Kendrapara. In spite of working for more than ten years, his services were not regularised. There is no written order of his appointment, but as daily casual mazdoor he has worked from time to time almost continuously. Telecom District Manager, Cuttack, in his letter of May 1991 (Annexure-1) asked the different subordinate offices to submit working particulars of retrenched casual mazdoors working prior to March 1985 for considering their re-employment. In the memorandum of this letter, there is an endorsement that copy of the letter has been sent to concerned retrenched mazdoors. The applicant states that a copy of this letter was also received by him. In response to this letter, the applicant submitted the details of his working particulars, but so far his case has not been sympathetically considered even though he belongs to a scheduled caste as is evidenced by the caste certificate issued by the Tahsildar, Salipur, which is at Annexure-3. In the above context, the applicant has come up in this application seeking the reliefs referred to earlier.

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3. The respondents in their counter have submitted that the application is barred by limitation and the applicant has worked as casual mazdoor only for 65 days in 1982-83 and thereafter he has not been engaged. As such, he cannot be absorbed in regular post of mazdoor, moreso because he has not worked for more than ten years and such long gap is not condonable in accordance with the circular dated 21.10.1992 which is at Annexure-R/1 to the counter. The respondents have also stated that in order dated 30.3.1985 (Annexure R/2) from the Directorate General, Posts & Telegraphs, fresh recruitment and employment of casual labour for any type of work were banned and it was ordered that existing casual mazdoors should be reallocated and utilised for certain types of maintenance

and office works mentioned therein. Subsequently in another circular dated 18.7.1985 (Annexure-R/4) it was laid down by the Department of Telecommunications that for cable laying, cable jointing and other similar types of work for which engagement of casual labourers was permitted notwithstanding the ban order referred to earlier should henceforth be got done through contractors' labourers. Thereafter in circular dated 7.11.1989 from the Department of Telecommunications (Annexure-R/5) a scheme was circulated for granting temporary status and regularisation of casual labourers. The respondents have taken the stand that even in accordance with this circular, the services of the applicant cannot be regularised. According to the respondents, there are many casual labourers having temporary status who are continuing as such waiting for regularisation, but because of non-availability of regular vacancies in Group 'D' posts, they are still continuing as casual labourers and their services are being regularised phasewise on the basis of availability of posts. On the above grounds, the prayers of the applicant have been strongly contested.

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4. I have heard the learned lawyer for the applicant and the learned Additional Standing Counsel appearing on behalf of the respondents. I have also looked into the materials on record. The first point to note is that the applicant has not brought any evidence on record in support of his plea that he has been engaged in 1981 and has been continuing till date. He has enclosed to his application, vide Annexures 3 and 4, copies of two certificates regarding his work as casual labourer. In the first certificate, which is dated 25.2.1991, it is stated that the applicant has been working under Kendrapara line staff as daily mazdoor till that date.

The other certificate, which is undated and is purportedly from J.T.O., Telegraphs, Salipur, states that the applicant has been working in construction and maintenance of telegraph lines under different line staff regularly for last two years. I am afraid, from these two certificates his long and continuous engagement from January 1981 till the filing of the application is not proved. The respondents, on the other hand, have specifically averred that in 1982-83 he worked only for 65 days and after that he was not engaged. In any case, after March, 1985, because of the ban order, referred to earlier, he could not have been engaged. In accordance with the scheme for conferring temporary status on and regularisation of services of casual labourers, such temporary status can be conferred only on casual labourers who are currently employed and should have rendered continuous service of at least one year out of which they must have been engaged to work for a period of 240 days for offices observing six-day week and 206 days for offices observing five-day week. Under none of these circulars the case of the applicant can be considered. He has worked only for 65 days in 1982-83 and is thus not entitled to be conferred temporary status, much less regularisation. He has filed no document in support of his vague statement that from 1981 till date he is continuing as casual labourer. There are, in any case, large number of casual labourers with temporary status who are waiting for regularisation because of non-availability of regular posts. The applicant has not stated that vacant posts are available for his regular absorption.

5. In consideration of the above, I hold that the application is without any merit and the same is rejected. There shall, however, be no order as to costs.

Somnath Som
(S.SOM)
VICE-CHAIRMAN
10-5-97