

5
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 737 OF 1993
Cuttack, this the 7th day of May, 1997

CORAM:

HONOURABLE SRI S. SOM, VICE-CHAIRMAN

....

1. Shri Rabindra Kumar Dehury,
son of Nilamani Dehury,
Village-Gunadei, P.O-Gunadei,
P.S.-Motanga, District-Dhenkanal.
2. Shri Debraj Sahu, At/PO-Gunidei, Dist.Dhenkanal
3. Shri Kumar Ch.Rout, At/PO-Dhalpur, District-Dhenkanal
4. Shri Bata Krishna Behera, At/PO-Dhalpur,
District-Dhenkanal
5. Shri Pranabandhu Mohabhoi, Village-Dhalpur,
P.O-Dhalpur, P.S-Mattanga, District-Dhenkanal
6. Shri Kirtan Mahakhuda, At-Odapada, PO-Hindol Road,
Dist.Dhenkanal.
7. Shri Kailash Chandra Mohakhuda, At-Gopalpur,
P.O-Badalo, District-Dhenkanal
8. Shri Sibaram Satpathy, S/o Madhaba Chandra Satpathy,
Vill-Banasingh, P.O-Banasingh, PS-Gondia, Dist.Dhenkanal
9. Shri Kulamani Hota, son of Dhaneswar Hota, Vill-Banasinghpur,
PO-Banasingh, Dist.Dhenkanal
10. Shri Narattoma Rout, working as Mazdoor,
in the office of the SDO, Bolangir, At/PO/Dist.Bolangir

.....Applicants.

-versus-

1. Union of India, represented through its
Secretary, Ministry of Communication,
Department of Telegraphs, Sanchar Bhawan, New Delhi.

-2-

2. General Manager, Telecommunication, Bhubaneswar.
3. Divisional Engineer, Telegraphs, Dhenkanal.
4. S.D.O., Telegraphs, Dhenkanal.
5. S.D.O., Telegraphs, Titilagarh, Bolangir.
6. S.D.O., Telegraphs, At/PO/Dist-Bolangir Respondents.

Advocates for applicants - M/s A.K.Misra, S.K.Das,
S.B.Jena, B.B.Acharya &
J.Sengupta.

Advocate for respondents - Mr.U.B.Mohapatra, A.S.C.

O R D E R

S.SOM, VICE-CHAIRMAN

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicants have submitted that they had been working under the respondents in Dhenkanal Telegraphs Sub-Division, as casual mazdoors on different dates in the years 1969, 1970, 1971, 1972, 1973 and 1985. They have claimed that this Tribunal in the case of Pitambar Nanda v. Union of India and others, OA No.18 of 1989, while disposing of MA No.65 of 1991 (arising out of the said O.A.), in its order dated 25.6.1991, has directed the Department to provide employment to the applicant, Pitambar Nanda, pending his regular absorption, if there is nothing adverse against him. On the same logic and ground the applicants have prayed for a direction to the respondents to regularise their services and pay them the regular scale of pay which is being given to their counterpart employees working on regular basis under the respondents and discharging the same duties. Some of the applicants

Somnath Jana
7.5.92

have produced engagement certificates and certain other records in support of their engagement in Dhenkanal Telegraph Sub-Division. Some others have merely produced copies of applications given to the respondents earlier indicating therein their period of engagement.

2. The respondents in their counter have alleged that the application is barred by limitation. They have further submitted that applicant nos.7 and 10 were retrenched in order dated 3.5.1985, being the juniormost daily rated mazdoors and thereafter they have not been engaged. They have submitted that after the circular dated 30.3.1985 issued by the Department of Posts and Telegraphs restricting engagement of daily rated mazdoors, some of these applicants have been disengaged and some stopped coming for work voluntarily as there was no scope for their engagement. It was subsequently ordered by the Government of India that for work of casual nature, contractors should be engaged so that work could be done by contractors' workers. The respondents have pointed out that some of the applicants have worked many years ago, their last engagement being sometime in 1972 and 1975, and after such long gap they cannot be regularised. They have also stated that none of these applicants has completed 240 days in a particular year and therefore, they cannot be regularised. The learned Additional Standing Counsel appearing on behalf of the respondents has also relied on the decision dated 19.1.1993 of this Tribunal in O.A.No.311 of 1992 (Udayanath Mishra v. Union of India and others) where the prayer for regularisation of a person who was similarly placed was rejected going by the decision of the Hon'ble Supreme Court in the case of State of Haryana and

*Committtee
7.5.93*

others v. Piara Singh and others, AIR 1992 SC 2130.

3. I have considered the submissions of the learned counsels of both sides as also materials available on record. In this case, the applicants have stopped working under the respondents many years ago. As earlier mentioned, in most cases the gap is more than ten years. In some cases, it is as long as 19 years. After such a long passage of time, it is not possible to order their regularisation. Moreover, none of them has completed 240 days of engagement under the respondents in a particular year and therefore, has not qualified for regularisation. It has also not been proved in the application that there are vacant posts and the Department is going to fill up the same by fresh recruitment. In consideration of the above, I hold that the prayer of the applicants for regularisation of their services is without any merit and is rejected. As the applicants are currently not in the employment of the respondents, the question of paying them on pro rata basis does not arise.

4. In the result, the application fails and is dismissed, but under the circumstances, without any order as to costs.

S. J. S. Som
(S. SOM)
VICE-CHAIRMAN
1.5.97