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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No. 79 of 1993
Read With
Misc. Application No. 467 of 1993
Date of Decision: 21.9.1993

Kapil Nag & Others

Applicant(s)

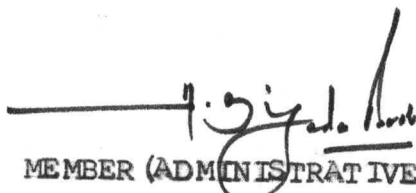
Versus

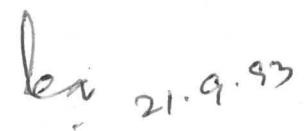
Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? *ND*
2. Whether it be circulated to all the Benches
of the Central Administrative Tribunals or not ? *ND*


MEMBER (ADMINISTRATIVE)
21 SEP 93


VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH; CUTTACK

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Kapil Nag & Others Applicant(s)

Versus

Union of India & Others Respondent(s)
For the applicant: M/s. K.C.Mishra
P.K.Pati,
Advocates

For the respondents: Mr.Akhaya Mishra,
Standing Counsel
(Central Government)

C O R A M:

THE HONOURABLE MR. K.P. ACHARYA, VICE - CHAIRMAN

AND

THE HONOURABLE MR.H.RAJENDRA PRASAD, MEMBER (ADMN)

JUDGMENT

MR.K.P.ACHARYA, VICE-CHAIRMAN, With the consent given by the counsel for both sides, we have heard this case on merits, because, counter has been filed ⁱⁿ to the main application. Prayer _{is} of the petitioners in this Original Application is as follows :

"That the petitioners pray to regularise their services in giving all remunerations as given to permanent employees giving equal pay for equal works doing similar

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work with all other benefits as they are entitled from the date of joining, i.e. pension, gratuity, G.P. Fund, E.L. C.L. House rent, medical leave etc. as the petitioners serving since long i.e. 8 to 24 years and their designations may be recorded correctly."

2. Shortly stated, in the present case, there are 79 petitioners, who have filed this application with the aforesaid prayer. Along with this original application Misc. Application Nos. 467, 490, 494, 495, 497, 498 and 499 of 1993 have been filed, in which the prayer of the petitioners (6 in number) are practically the same. In the prayer, it is mentioned to restrain the opposite parties from retiring the petitioners placed against Sl. Nos. 1, 7, 17, 22 and 29 till the adjudication of the original application.

3. At first we were surprised as to how casual labourers would be made to retire instead of an order of discharge. While hearing Mr. K.C. Mishra, learned counsel for the petitioners and Mr. Akhaya Mishra, learned Standing Counsel on the merits of the original application and that of all the Misc. applications, Mr. Akhaya Mishra, learned Standing Counsel invited our attention to the provisions contained in Schedule 1 (b) of the Industrial Employment (Standing Order) Act, 1946, specially attracting our attention to Rule-3. Basing on this rule, it was contended by Mr. Akhaya Mishra that the petitioners may come within the Workmen Compensation Act, and therefore, the aforesaid Industrial Employment (Standing Order) Act, 1946 governs the petitioner.

4. We refrain ourselves from expressing any
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opinion on this issue because, nowhere, either in the original application or in the Misc.applications, it has been prayed that the petitioners having been made to retire before attainment of their respective years of retirement, their date of birth should be corrected. We do not like to interfere in the matter, because Mr.K.C.Mishra, learned counsel for the petitioners through submitted that the date of birth of the petitioners have been wrongly recorded in the service book, and therefore, the order of retirement is illegal, yet, there has been no prayer either in the original application or in the Misc.application to order correction of date of birth. At the cost of repetition, we may say that the only prayer in the original application is to order regularisation of the services of the petitioners. Therefore we propose to confine ourselves strictly to the prayer mentioned above. Mr.Akhaya Mishra, learned Standing Counsel drew our attention to the judgment passed in Review Application No.22 of 1993 arising out of Original Application No.453 of 1991. Therein, we have stated that a scheme should be prepared according to the judgment of the Honb'le Supreme Court and all casual labourers must be listed according to their seniority; and as and when vacancy arises, subject to the adjudication of their suitability, they may be appointed against regular vacancy. So far as those incumbents who are made to retire are concerned, we pass no orders. We have already indicated in several judgments relying on AIR 1987 SC 2342 that the casual labourers are entitled to the basic pay scales of a regular

employee in the Group D Cadre. Hence casual labourers be paid the basic pay scale. Thus the application is accordingly disposed of. No costs.


MEMBER (ADMINISTRATIVE)
21 SEP 93


21-9-93
VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench Cuttack
dated the 21.9.1993/ B.K. Sahoo