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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORJGTL APPPLICATION NO. 134 OF 1994
Cuttack this the 10th day of November, 1999

Laxman Kumar Mohapatra

Applicant(s)

-Versus-

Union of India & Others

Respondent(s)

FOR INSTRUCTIONS

1. Whether it be referred to 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
10.11.99

10.11.99
(G. NARASTHMAM)
MEMBER (JUDICIAL)

b
 CENTRAL ADMINISTRATIVE TRIBUNAL,
 CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.134 OF 1994
 Cuttack this the 10th day of November, 1999

CORAM:

**THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
 AND**

THE HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

...
Laxman Kumar Mohapatra
 son of Shri Arjuna Mohapatra,
 At/po: Godakokala, Via: Basudevpur
 P.S: Bramhagiri, District: Puri

...
 By the Advocates : Applicant
 M/s.K.C.Kanungo
 S.Behera
 B.Rout

-Versus-

1. Union of India represented by the Central Provident Fund Commissioner, 9th floor, Mayur Bhawan, New Delhi
2. Regional Provident Fund Commissioner, Bhavishyanidhi Bhavan, Janpath Unit-TX, Bhubaneswar-751009
3. Assistant Provident Fund Commissioner Bhavishyanidhi Bhavan, Janpath Unit - TX, Bhubaneswar-751009
 Dist: Khurda

...
 By the Advocates : Respondents
 Mr.U.B.Mohapatra
 Addl.Standing Counsel
 (Central)

...

ORDER

MR.G.NARASTHAM, MEMBER(JUDICIAL): In this application seeking direction to the respondents to regularise the service of the applicant in the post of Cook-cum-Attendant, the case of the applicant Laxman Kumar Mohapatra is that he was appointed as Cook-cum-Attendant for a period of 10 days ~~while~~ the E.P.F.Holiday Home at Hotel Samudra, Puri by Regional Provident Fund Commissioner (Res.2) vide letter dated 31.12.1990 (Annexure-1). On the basis of this appointment, the applicant joined on 1.1.1991 and had been working since then drawing monthly salary. In letter dated 4.2.1994, Respondent 2 directed the applicant to appear in an interview on 2.3.1994 (Annexure-3). The applicant accordingly appeared in the interview for the post of Cook-cum-Attendant. In fact as he has been continuing in that post, he should ^{not} have been called to appear in the interview and he should have been regularised. However, despite his appearance in the interview, the Department are trying to appoint an outsider. Hence this application on 11.4.1994.

2. The Department in their counter filed on 22.7.1994 plead that the applicant was engaged as Cook-cum-Attendant on purely temporary daily wage basis for a period of 10 days. Though he worked on some days and that too intermittently from 1.1.1991 to 30.10.1991 as mentioned in the counter, the Holiday Home of the Department became inoperative from 30.10.1991 to 21.2.1992 as the Hotel was under seizure by the Fiancing Institution. The Holiday Home resumed functioning from 21.2.1992 onwards. However, the

petitioner was not appointed even on daily wage basis, because one of the regular employees of the Department, viz., Mahendra Kumar Jena, serving as Cook-cum-Attendant was transferred from Bhubaneswar to that Hotel at Puri in the same capacity. In the meantime steps were taken to appoint a Coom-cum-Attendant for that Holiday Home. Employment Exchange was requested to sponsor the names of eligible candidates for that post. The name of the applicant was sponsored by the Employment Exchange and interview was held on 3.6.1992. The applicant attended the interview on 3.6.1992. The then Selection Committee did not find him fit for the post and recommended the names of two candidates in order of merit. As the first candidate did not join, the next selected candidate, viz., Tapan Kumar Parida was given appointment and joined as Cook-cum-Attendant on 7.8.1992. The interview held on 2.3.1994 was not in respect of the post in Holiday Home, but in respect of the vacancy in the post of Cook-cum-Attendant in the Rest House at Bhubaneswar that arose on account of promotion of the existing Coom-cum-Attendant. Though the applicant attended that interview, he was not found fit and was not selected. On these averments, the Department pray for rejection of this Original Application.

3. We have heard Shri K.C.Kanungo, learned counsel for the applicant and Shri U.B.Mohapatra, learned Addl. Standing Counsel appearing for the respondents. Also perused the records.

The applicant has not filed any rejoinder refuting the facts averred in the counter.

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We, therefore, presume that the facts averred in the counter are true, specially when the applicant did not annex copy of the notice he received for appearing interview on 2.3.1994.

4. In the result, we do not see any merit in this application which is accordingly dismissed leaving the parties to bear their own costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
10.11.99

10.11.99
(G.NARASIMHAM)
MEMBER(JUDICIAL)

B.K.SAHOO