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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 21 OF 1994
Cuttack, this the 14th day of May, 1997

CORAM;

HONOURABLE SRI S.SOM, VICE-CHAIRMAN

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Durga Prasad Mishra,
aged about 32 years,
son of Basudev Mishra,
At/PO-Pittal (Santoshpur Sashan),
Via-Aska, District-Ganjam,
At present working as Casual Sweeper-cum-
Waterman in the office of the Senior
Superintendent of Post Offices,
Aska Division,
At/PO-Aska, District-Ganjam

....

Applicant

-Vrs.-

1. Union of India, represented by
its Secretary,
Department of Posts,
Dak Bhavan, New Delhi.
2. Chief Post Master General,
Orissa Circle, At/PO-Bhubaneswar,
District-Khurda.
3. Post Master General,,
Berhampur Region, PO-Berhampur-1,
District-Ganjam.
4. Superintendent of Post Offices,
Aska Division, At/PO-Aska, District-Ganjam

... Respondents

Advocates for applicant

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M/s R.N.Naik, A.Deo,
B.S.Tripathy, P.Panda &
A.Misra.

Advocate for respondents

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Mr.Ashok Mishra.

ORDER

Somnath Sin.
14.5.97

S.SOM, VICE-CHAIRMAN

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

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direction to quash the interview proposed to be held on 25.1.1994 for filling up the vacant post of Group 'D' in the office of respondent no.4 where, according to him, he has been working as a casual labourer from July,1984 till the time of filing of the Original Application. He has also prayed for a direction to the respondents to regularise his services in a Group 'D' post. When the application was admitted on 25.1.1994, the prayer for staying the interview was rejected, with the observation that the result of the application would govern the future service benefits of the applicant. As such, the first prayer of the applicant already stood rejected in order dated 25.1.1994, and I am now only concerned with the prayer for regularisation of his services in a Group 'D' post.

2. According to the applicant, he was appointed in July,1984, as a casual labourer in the office of respondent no.4 and was entrusted with the work of sweeping and supplying water. He has read upto Class X. At the time of his initial engagement, he was 23 years old and by the time of filing of the application he had attained the age of 32 years. The applicant's case is that according to instructions of Department of Personnel and Administrative Reforms as well as Director-General, Posts, his case can be considered for regularisation in a Group 'D' post and this is his prayer.

The respondents in their counter have submitted that the applicant was engaged as a part-time contingent paid worker in the office of respondent no.4 on 1.9.1984. He did not come through Employment Exchange. He was entrusted with the work of sweeping the office and supplying water and he has been doing the

*Submitted
14.5.97*

work till the date of filing of the counter. According to the respondents, the instructions regarding regularisation of services relate to such of the casual workers who have been appointed through Employment Exchange and who have the requisite qualification. The applicant has not come through Employment Exchange, nor is he a casual worker. He is only a part-time worker paid from contingency and his case is not covered under those circulars. It has been further submitted by the respondents that an one time relaxation was given by the Director-General, Posts, for regularisation of services who have not come through Employment Exchange but of those casual workers who have put in 240 days of work for six-day week office and 206 days of work for five-day week office. The applicant has never worked for 206 days in any year. On that ground also, his case cannot be taken up for regularisation. Lastly, it has been urged that according to departmental rules, Group 'D' posts in the Department are filled up by various categories of eligible employees and in the following order of preference:

- (a) Non-test category
- (b) E.D.employees
- (c) Casual labourers
- (d) Part-time casual labourers

The respondents' case is that as the number of E.D.employees waiting to be absorbed in Group 'D' posts is very large and as the applicant does not come even within category (d) with the lowest order of preference as part-time casual labourer, his case cannot be taken up for consideration for regularisation as a Group 'D' employee.

4. I have considered the submissions made by the learned lawyer for the applicant as also the learned Senior Panel Counsel appearing on behalf of the respondents. I find from Annexure-R/1 that

14.5.92
Jm.

the applicant was appointed on the basis of a petition given by him to the then respondent no.4. He applied on 31.8.1984 and on the petition itself orders were passed on 21.9.1984 to engage him as a contingent paid worker. As such, he has not come through Employment Exchange. The respondents have submitted that the normal scheme of regularisation is only for those casual workers who have come through Employment Exchange. The casual workers work for eight hours a day and in case they perform more or less the same duties as Group 'D' employees, they are to be paid, according to the decision of the Hon'ble Supreme Court and the departmental instructions issued thereafter, at the rate of 1/30th of the minimum of the pay scale of the corresponding Group 'D' employee plus dearness allowance. The applicant is working for less than eight hours a day and is being paid from contingency. He is thus not a casual labourer. He can at best be taken as a part-time casual labourer coming under the lowest order of preference, as mentioned earlier. As per departmental instructions, regularisation of those casual labourers who have ^{not} come through Employment Exchange was ordered as an one time measure and the applicant cannot ask for the same benefit. As such, it is clear that the residual prayer of the applicant to absorb him directly in a Group 'D' post is without any merit and must be rejected. But as the applicant has admittedly worked from 1984 as a part-time contingent paid worker, the respondents should consider him for engagement as a casual worker as and when there is need for such work.

5. With the above observation, the Original Application is disposed of. No order as to costs.

Srinath Jay
(S.SOM)
VICE-CHAIRMAN 14.5.95