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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 195 OF 1994
Cuttack, this the 21st day of April, 1997

DIJABAR BHOI

....

APPLICANT

VRS.

UNION OF INDIA & OTHERS

....

RESPONDENTS

(FOR INSTRUCTIONS)

1. Whether it be referred to the Reporters or not? *no*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? *no*

Somnath Sin,
(S.SOM)
VICE-CHAIRMAN
21/4/97

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 195 OF 1994
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CORAM:

HON'BLE SRI S.SOM, VICE-CHAIRMAN

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Dijabar Bhoi
aged about 53 years
son of late Raghu Bhoi
resident of village Arana
PO - Gadama
PS/Dist - Jagatsinghpur

....

Applicant

Versus

- 1) Union of India
represented by Secretary
Ministry of Telecommunication Department
Central Secretariat
Sanshad Bhawan
New Delhi-1
- 2) Chief General Manager Telecommunication
Orissa
At/PO/PS - Bhubaneswar
District - Khurda
- 3) Telecom District Manager
Cuttack
At - Cantonment Road
PO - Buxibazar
Cuttack
PS - Cantonment
- 4) Sub Divisional Officer Phones
Cuttack
Carrier Post & Telegraph Office
Railway Station
Cuttack
PO - College Square
PS - College Square
PS - Malgodown
District-Cuttack

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Respondents

Advocates for applicant -

M/s.T.K. Sen
P.B.Sahoo &
B.N.Dash

Advocate for respondents-

Mr.U.B.Mohapatra

.....

Commn Sum
21.4.97

ORDERS.SOM.VICE-CHAIRMAN

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has claimed for issue of a direction to the respondents to appoint him to his original post of Wireman after treating his period of long absence as leave.

2. According to the applicant, he was appointed as Peon in the Sub-Divisional Office (Telephones) at Cuttack in the year 1966. He was promoted to the post of Peskar and posted to Carrier Office, Railway Station, Cuttack, under respondent no.1. He worked under Sub-Divisional Officer, Phones, Cuttack, for ten years and in 1976 was promoted to the post of Wireman and sent for training at Madras for one month. After return from training he joined as Wireman in Carrier Office, Railway Station, Berhampur. He appeared at the examination of Telegraph Mechanic in 1979 and worked as Wireman under Divisional Engineer, Carrier Office, Berhampur, till 1980. He fell ill in 1981 and remained on leave for more than twelve years. After recovery in the year 1993 he applied on 3.7.1993 to respondent no.3 to appoint him in his original post of Wireman. As his representation was not considered, he has come up in this Original Application with the prayer mentioned earlier.

3. The respondents in their counter have pointed out that from the available gradation list it appears that the applicant was appointed as Wireman temporarily on 19.6.1962. No records are available in the Department with regard to his further work in Carrier Office, Railway Station, Cuttack,

Somnath Som
21.4.97

his promotion to Batteryman and Wireman and then to Telegraph Mechanic, and his work under Divisional Engineer, Carrier Office, Berhampur. The respondents have denied that the applicant has worked in the above posts. They have also averred that there is no post of Peskar or alternatively Luskar in the Department and the applicant could not have worked in such a post. The respondents have also submitted that the applicant was away from his job from 1981, according to him, without any intimation, and as such he cannot be taken back in service.

3. From the above recital of facts, it is seen that his averments in the Original Application that he has worked in different posts and has got several promotions cannot be held to be proved because according to the respondents, there is no record of the applicant's working in the posts mentioned earlier, nor has the applicant produced any documentary evidence in support of his assertions. In case he worked in the Department from 1966 to 1981 for about fifteen years, as he says, there would be some record with him about his service career. In the absence of any such record, it cannot be held beyond what has been mentioned in the gradation list that he was appointed as Peon on 19.6.1962 on temporary basis. The other contentions of the applicant that he worked in various other posts on promotion must be held as not proved.

*Submitted by
21.4.97*

4. As regards his long absence for more than twelve years, admittedly the applicant did not apply for leave or intimate his authorities about his illness. He was not examined by any Government doctor. Along with his application, he has

submitted a medical certificate, dated 3.7.1993, i.e., the date of his representation, in which a private medical practitioner has certified that the applicant was a chronic patient of gastroenteritis with malnutrition and postural hypertension and was under his treatment from 3.6.1981 to 2.7.1993 and that the applicant was also continuing his treatment. Not much reliance can be placed on this medical certificate, firstly because the applicant as a Government servant should have obtained a certificate from the Government doctor, and secondly the type of illness from which the applicant has been certified to be suffering is not such which would make him unfit for Government work for a prolonged period of twelve years. Malnutrition, hypertension and gastroenteritis are not diseases which would keep a person confined to his bed for more than a decade.

5. The fact that in course of these twelve years the applicant did not intimate the departmental authorities under whom, according to him, he was working before going on leave is also a point to be taken note of. In consideration of the above, it is held that the applicant has not been able to prove that he had worked under the respondents for a period of fifteen years. The reasons which, according to him, kept him away from the job for more than twelve years are also held to be not genuine. Because of this, it is held that the application is without any merit and is, therefore, rejected. There shall be no order as to costs.

S. Som
(S.SOM)
VICE-CHAIRMAN 21/4/97