

9

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 382 OF 1994.

Cuttack this the 7th day of December, 1998.

Tapodhan Mishra.

....

Applicant.

-Versus.

Union of India & Others.

Respondents.

(FOR INSTRUCTIONS)

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

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN 12/198

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 382 OF 1994.

CUTTACK, this the 7th day of December, 1998.

C O R A M

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDICIAL).

....

Shri Tapodhan Mishra, aged about 29 years,
S/o. Upendra Mishra of Village Gopinathpur,
ps. Puri Sadar, Dist. Puri.

... APPLICANT.

By legal practitioner: Mr. Banamali Sahoo, Advocate.

-VERSUS-

1. Union of India represented by the
General Manager, South Eastern Railway,
Garden Reach, Calcutta-43.
2. Divisional Railway Manager,
South Eastern Railway, Khurda Road,
Division, At/Po. Jatni, Dist. Khurda.
3. Senior Divisional personnel Officer,
South Eastern Railway, Khurda Road
Division, At/Po. Jatni, Dist. Khurda.

... RESPONDENTS.

By legal practitioner : M/s. B. Pal, O. N. Ghosh, P. C. Panda,
Senior Standing Counsel.

....

J. Jm

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN.

In this Original Application, under section 19 of the Administrative Tribunals Act, 1981 the applicant has prayed for a direction to the Respondents to allow him to work as Casual Labourer in the Commercial Department of South Eastern Railway Khurda Road, Division and also for regularisation of his services. According to the petitioner, he has worked as Hot weather Waterman on casual work basis under the Station Superintendent, S.E. Railway, Talcher for a period of 80 days from 10.4.1983 to 30.6.1983 after which he was discharged from the work. After such discharge, he has been representing to the Departmental Authorities to take him back as Casual Labourer but without any result. He has also filed representation to the Chief Minister of Orissa which was also forwarded ^{to} ~~by~~ the Respondent No.3 but no favourable action was taken. As such, he has come up in this original application, with the aforesaid prayer.

2. Respondents, in their counter have stated that from the available records and files, it is seen that three persons worked as Casual Hot Weather waterman in Talcher Railway Station from 1.4.1983 to 30.6.1983 and they were Digambar Swain, Gopinath Sahu and Sanatan

S. Som.

12

-3-

Sena. It is stated that except the above persons, no other person was engaged as Hot Weather Waterman and it is specifically stated that Annexure-1, which is the certificate produced by the applicant purportedly issued on 7.7.93 by the Station Superintendent, Talcher Railway Station, is not a genuine document. In support, of the above contention, Respondents have also submitted a letter dated 28.8.1983 indicating the appointment of different persons against casual hot weather waterman in different Railway Stations of Khurda Railway Division. Against the Talcher Station and Talcher Thermal Railway Station, names of persons earlier *mentioned* *S.S.M.* ~~worked~~ *S.S.M.* appeared and not the name of the present applicant. There is also a report dated 12-8-94 from the Welfare Inspector, Cuttack according to which he visited the Talcher Railway Station on 11.8.94 and verified all the relevant available records of the Station Supdt. Talcher and could not find any evidence that the applicant has ever worked there. The Station Supdt. Talcher Railway Station vide letter dated 11.8.94 Annexure-R/3 has also intimated that on verification of records and the muster roll he is satisfied that no such person in the name of applicant has worked in that Division. On the above grounds, the Respondents have opposed the prayer of the Applicant.

S.S.M.

-4-

13

3. We have heard Shri B. Pal learned Senior Counsel appearing for the Respondents and have also perused the records. The sole basis of the claim of the applicant is his purported engagement for a period of 80 days from 10.4.83 to 30.6.1983 as Hot Weather Waterman under Station Supdt. Talcher Railway Station. This claim has been denied by the Respondents, on the basis of the documents and the enquiry report. In view of this, we hold that the applicant has failed to prove that he had worked as a Hot weather Waterman under the Station Supdt. of Talcher Railway Station for the above period. Moreover, just because he had worked for 80 days ^{during} ^{ago,} ^{JSM.} ^{JSM.} more than a decade, now he can not claim that he should be again taken back into service and regularised.

4. In view of this, the application is held to be without any merit and is rejected but under the circumstances without any order as to costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN 2/98

KNM/CM.