

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 504 OF 1994
Cuttack, this the 15th day of October, 2001

P.Avmugham and others Applicants

Vrs.

Union of India and others Respondents

FOR INSTRUCTIONS

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

(G.NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOI)
VICE-CHAIRMAN
15.10.2001

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CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

1. P.Avmugham, son of Padmanabhan
.....
2. C.Apputty son of Kelu
3. K.Chandran son of Chand Kutty
4. K.K. Parangadan, son of Chhatu
5. A.Saidalui son of M.Eden Kutty
6. N.M.Nedar, son of P.Kanji
7. C.K.Saidalui, son of Kunhamutty
8. N.C.Md.Kutty, son of Mahammad
9. K.T.Mohammad, son of Ahmad Kutty
10. C.Ayyaputty, son of Chunia Khan
11. A.Varu, son of Apputty

All are employed under the District Engineer
(Reyirding), Cuttack

..... Applicants

Advocates for applicants - M/s S.K.mund
D.P.Das
J.K.Panda
S.B.Ray

Vrs.

1. Union of India, represented through General Manager,
South Eastern Railway, Garden Reach, Calcutta.
2. Chief Project Manager, South Eastern Railway,
At/PO-Chandrasekharpur, Bhubaneswar, Dist.Khurda.
3. District Engineer (Reyirding), South Eastern
Railway, Kuakhai Bridge, Cuttack.

..... Respondents

Advocates for respondents - Mr.R.Ch.Rath

O R D E R
SOMNATH SOM, VICE-CHAIRMAN

In this O.A., the eleven petitioners have
prayed for giving them permanent status from their

respective dates of initial appointment along with all service benefits. They have also prayed for regularisation in Group-C category instead of Group-D category as they were all appointed in Group-C category and have been drawing their salary as Group-C staff.

2. The case of the applicants is that they were appointed as casual labourers in Construction Organisation. Applicant nos. 1, 2, 3, 5, 9, 10 and 11 were appointed on 18.10.1975 whereas applicant no. 4 joined on 24.2.1976, applicant no. 6 joined on 3.3.1976, and applicant nos. 7 and 8 joined on 23.10.1975. They have stated that all along they have been working in Construction Organisation without any break. At Annexure-1 they have enclosed a memo showing their initial date of engagement as also the completed number of days of work. It is stated that in consideration of their continuous work, they were absorbed against PCR posts with effect from 1.4.1988. These orders were, however, issued on 16.7.1992 and 30.12.1992. The applicants have stated that this was communicated to ~~communicated~~ them in January 1994. The applicants' grievance is that persons who were appointed along with them and those who were juniors going by the total number of days of service as casual labourers have been regularised from 1.4.1973. They have specifically mentioned the names of two persons, A.N. Patra and Satrughna Sharma who, according to the applicants, were appointed either along with the applicants or after them, but they have been absorbed in PCR posts from 1.4.1973. The second

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grievance of the applicants is that they have been absorbed against Group-D posts though they have all along been working in Group-C category. In the context of the above, the applicants have come up in this petition with the prayers referred to earlier.

3. The respondents have filed counter opposing the prayers of the applicants. No rejoinder has been filed. It is not necessary to record all the averments made by the respondents in their counter as these will be taken note of while considering the submissions made by the learned counsel of both sides.

4. We have heard Shri S.K.Mund, the learned counsel for the petitioners and Shri R.C.Rath, the learned Railway Advocate appearing for the respondents.

5. One of the points mentioned in the counter will have to be noted. The respondents have stated in their counter that earlier eight of the present applicants had approached the Tribunal in OA No.446 of 1990 which was disposed of in order dated 11.2.1994 and therefore, it is submitted that principle of resjudicata will be applicable in respect of these petitioners. We have perused the records of OA No.446 of 1990, and on a comparison with the two O.As. we find that out of the present eleven applicants before us, ten applicants, i.e., all except applicant no.6 were amongst the 56 petitioners in OA No.446 of 1990. In OA No.446 of 1990 these ten applicants along with others had prayed for regularisation of their services by treating the entire

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service period of the applicants as regular. In other words, the applicants in OA No.446 of 1990 had prayed for their regularisation from the date of their initial engagement. The Tribunal in their order dated 12.2.1994 noted that all the petitioners except those mentioned against serial nos.45 and 56 have been absorbed in regular establishment and therefore, the Tribunal held that no further directions are necessary to be passed. As this order of the Tribunal has become final, it is not open for these 10 applicants before us who were applicants in the earlier O.A./for their regularisation from the date of their initial engagement. In view of the above, this prayer of these ten applicants is held to be not maintainable and is rejected.

6. So far as applicant no.6 is concerned he was not an applicant in the earlier O.A. It is seen from page 5 of the memo (serial no.140) enclosed by the applicants themselves that his total continuous service prior to 1.4.1985 was taken as 3270 days and from 1.4.1985 till the date of preparation of this memo he had put in 1217 days, thus totalling 4245 days. His grievance is that he has been regularised from 1.4.1988 in order dated 30.12.1992 whereas persons who had joined along with him or later and who had put in lesser days of work have been regularised from 1.4.1973. The petitioners have given the example of 2 persons, A.N.Patra and Satrughna Sharma. The respondents have pointed out in their counter that A.N.Patra had in total 8972 days of work including past work of 3481 days before

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joining the Regirdering Unit where applicant no.6 is also working. As we have noted that applicant no.6 had 4245 days of work and therefore, he cannot claim that he should be regularised from the same date as A.N.Patra. As regards Satrughna Sharma, the respondents have made no averment in their counter about the number of days of service rendered by Satrughna Sharma. They have referred to one D.Swaminathan whose case has not been referred to by the applicants. We have gone through the memo enclosed by the applicants themselves and in this we could not find the name of Satrughna Sharma. From this it is clear that applicant no.6 has not indicated the number of days of work of Satrughna Sharma or that the number of days of work as casual worker rendered by him is more than Satrughna Sharma. The respondents have pointed out that PCR posts were created for regularisation of the casual workers. They have mentioned in their counter that from 1.4.1973, 48 PCR posts in Group-D were created, from 1.4.1984 252 posts and from 1.4.1988 132 Group-D posts were sanctioned and casual staff were absorbed against PCR posts going by the number of days of work at their credit. Persons having more number of days at their credit were absorbed serially. Even if it is accepted that applicant no.6 was engaged prior to Satrughna Sharma, merely on the basis of his prior engagement he cannot claim absorption from the date Satrughna Sharma was absorbed. It is dependent upon the number of days of work put in by applicant no.6 and Satrughna Sharma. In view of this,

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we hold that the contention that persons who had less number of days of work at their credit were regularised from a date earlier than applicant no.6 cannot be accepted. This contention is accordingly rejected.

7. The last prayer of the applicants is to absorb them in Group-C posts as they were all along working in Group-C. This contention is factually not correct so far as the other ten applicants are concerned because in the earlier O.A. they had indicated the dates from which they were promoted to Group-C posts. In any case a casual worker working in Construction Organisation can be given promotion to higher post in Group-C category because of exigency of work, but he is to be absorbed initially in Group-D post and will be entitled to protection of his pay. In view of the above, this prayer is held to be without any merit and is rejected.

8. In the result, the O.A. is held to be without any merit and is rejected. No costs.

(G.NARASIMHAM)
MEMBER(JUDICIAL)

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(SOMNATH SOM)
VICE-CHAIRMAN
15.10.2011

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