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CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.514 O F 1994

Cuttack, this the 5th day of December, 1997

Sri Muralidhar Samal Applicant.

Vrs.

Union of India and another 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 .

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
Dec 1997

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.514 OF 1994

Cuttack, this the 5th day of December, 1997

CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN

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Sri Muralidhar Samal,
aged about 42 years, son of late Sanei Samal,
Ex-Casual Labourer, C.R.R.I., Cuttack,
resident of Village/PO-Bagalpur, Via & Dist. Jagatsinghpur
..... Applicant.

Vrs.

1. Union of India, represented by Indian Council of Agriculture Research Centre, represented through Director-General, Krishi Bhawan, New Delhi.
2. The Director, Central Rice Research Institute, (in short C.R.R.I.), At-Bidyadharpur, Cuttack-6 Respondents

Advocates for applicant - M/s J.Gupta & A.K.Misra.

Advocate for respondents - Mr.Ashok Misra.

ORDER

Somnath Som, Vice-Chairman

In this application under Section 19 of Administrative Tribunals Act, 1985, the applicant has prayed for a direction to the respondents to appoint the applicant to a permanent post of labourer by regularising his services with payment of back wages.

2. The facts of this case, according to the application, are that the applicant belongs to Scheduled

Caste. He had registered his name in Cuttack Employment Exchange in 1969. His name was sponsored by the Employment Exchange in 1970 and he attended the interview for the post of casual labourer on daily wage basis and after qualifying in the interview, he joined as casual labourer in Central Rice Research Institute, Cuttack, on payment of Rs.42/- for six days till 1972. After 1972, the wages were increased and he started getting Rs.58/- for six days and continued as such till 1975. He had attended recruitment test for a permanent post and according to him, though he was selected he was asked to continue as casual labourer and accordingly he discharged his duties till 1980. Again on 28.3.1980 and 29.3.1980 interview was held for permanent post and the applicant appeared in the interview. According to him, he was selected, but the then Director of Central Rice Research Institute, Cuttack, advised the applicant to stop work and assured that a permanent post would be given to him. But even though the applicant waited for long, no permanent post was offered to him. He made several representations, but no action was taken on his representations. He made representations to Hon'ble Prime Minister of India, Chairman, Parliamentary Committee for Welfare and of Scheduled Castes, Hon'ble Chief Minister of Orissa

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and also applied to the Legal Aid and Advice Board, Orissa. But in spite of all his efforts, no regular job was given to him. On the other hand, the departmental authorities informed the Member-Secretary, Orissa Legal Aid and Advice Board, in their letter dated 6.12.1990 at Annexure-1 that the applicant had left the Institute on his own in December 1977 and after that he had not worked as casual labourer. It was also indicated that according to the ban order of Government of India and Indian Council of Agricultural Research, no extra casual labourers can be engaged by the Institute. His case was also taken up by Central Rice Research Institute Shramik Sangha, but without any result. The applicant had earlier filed O.A.No. 139 of 1991 in which he made the prayer which is identical to his prayer in the present petition. O.A. No. 139 of 1991 was disposed of by the Division Bench in order dated 21.1.1993, the relevant portion of which is quoted below:

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"In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner prays for a direction to the Opposite Parties to give permanent post of labourer by regularising the services of the petitioner with payment of back wages.

2. Shortly stated the case of

the petitioner is that he was employed as a casual labourer in the office of the Central Rice Research Institute (Cuttack) and since 1980 he has ceased to function as Casual labourer. This application has been filed on 7th May, 1991. Section 21 of the Administrative Tribunals Act, 1985 creates a clear bar to take cognizance of any cause of action said to have accrued prior to 1.11.1982. Law is equally well settled that representations filed long after the limitation running against the petitioner aggrieved, does not save the limitation. Be that as it may, here is a case where a very poor man goes without food and sustenance of his life and that of his family members has come verify (sic) difficult on the part of the petitioner. We cannot concede a situation that C.R.R.I. - a large organisation will not be able to engage a person as a casual labourer. We would strongly recommend the case of the petitioner to the Director, C.R.R.I. to take a sympathetic attitude over the petitioner and give him some employment as a casual labourer and whenever in future vacancy arises, case of the petitioner be considered for regular appointment if otherwise he is not found to be suitable."

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It is the case of the applicant that in spite of the above order of the Tribunal, his services have not been regularised by the respondents and therefore, he has come up in the present application with the prayer referred to earlier.

3. Respondents in their counter have denied the assertions of the applicant. It has been stated that in deference to the Tribunal's order, dated 21.1.1993, passed in O.A.No.139/91, the respondents considered the case of the applicant and found him unsuitable for regularisation. The respondents have also stated that because of the ban order issued by Indian Council of Agricultural Research, it is not possible to engage the applicant as casual labourer. On the above grounds, the respondents have opposed the prayer of the applicant.

4. I have heard the learned lawyer for the applicant and the learned Senior Panel Counsel appearing on behalf of the respondents and have also perused the records.

5. From the order dated 21.1.1993 passed by the Tribunal in O.A.No.139 of 1991, the relevant portion of which has been quoted earlier, it is clear that the prayer of the applicant in O.A.No.139/91 for regularisation of his services under Central Rice Research Institute has been rejected in view of the fact that cause of action has arisen in 1980 and the Tribunal is not competent to take cognizance of matters which have arisen more than three years before its constitution. In view of this, it is not open for the petitioner in the present application to urge

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the same prayer because with the disposal of O.A.No.139/91, the same prayer of the applicant cannot be re-agitated once again.

6. In their order dated 21.1.1993 in O.A.No.139/91 the Tribunal had recommended the case of the petitioner to the Director, Central Rice Research Institute, Cuttack, to take a sympathetic view and give him some employment as casual labourer and to consider his case for regular appointment in case he is found suitable as and when any future vacancy arises. Learned lawyer for the petitioner, in course of his submission, has stressed on implementation of this request of the Tribunal by the respondents. Respondents in reply have pointed out that on 19.9.1990 the Indian Council of Agricultural Research have issued ban orders to all Directors of I.C.A.R. Institutes directing that no casual labour will be employed by any Institute over and above the existing ones. It has been urged by the respondents that in view of this ban order, it has not been possible for the respondents to give the applicant engagement as casual labourer. Respondents have also pointed out in their counter that the case of the applicant had been considered for regular appointment by a Selection Committee earlier, but he was not found suitable. In reply, the learned lawyer for the petitioner submitted that the ban order of the I.C.A.R. came on 19.9.1990. But

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192
at the time of adjudication of O.A.No.139/91, which was disposed of on 21.1.1993, the respondents had not mentioned anything about this ban order and therefore, they cannot be allowed to rely on this ban order to frustrate the request made by the Tribunal to the respondents to give the applicant engagement as casual labourer. I have considered this aspect very carefully. O.A.No.139/91 was disposed of on the basis of Section 21 of Administrative Tribunals Act, 1985, as is clear from the portion of the order quoted above. So the question of the respondents not bringing to the notice of the Tribunal the ban order of September 1990 did not arise in that case. The Tribunal have no doubt made a request to the Director, C.R.R.I. to give the applicant casual employment. But in view of the clear ban order of I.C.A.R., the Director, C.R.R.I. cannot violate the ban order and provide casual engagement to the applicant, that too after a gap of twenty years.

7. In the result, therefore, I hold that the application is without any merit and the same is rejected, but, under the circumstances, without any order as to costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
S/12/97