

9

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.525 OF 1994  
Cuttack this the 6<sup>th</sup> day of January, 1999

Sri Narendra Prasad Panigrahi

Applicant(s)

-Versus-

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

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

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
8.1.99

6.1.99  
(G.NARASIMHAM)  
MEMBER (JUDICIAL)

10

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.525 OF 1994  
Cuttack this the 6<sup>th</sup> day of January, 1999

CORAM:

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

Sri Narendra Prasad Panigrahi,  
aged about 38 years,  
S/o. Gayadhar Panigrahi  
At Village:Madhusuanpur, P.O.Baraindua,  
Via:Basudebpur, District:Bhadrak,  
at present working as Contingent Lower Division  
Clerk, Office of the Deputy Director General  
Geological Survey of India,  
Operation Orissa, Unit No.8, Nayapalli,  
Bhubaneswar-12

...

Applicant

By the Advocates : Mr.G.B.Dash

-Versus-

1. Union of India represented  
by the Secretary,  
Department of Mines,  
Central Secretariat,  
Sastri Bhawan, New Delhi-110001
2. The Director General  
Geological Survey of India,  
27, Jawaharlal Nehru Road,  
Calcutta-700016
3. The Deputy Director General,  
Geological Survey of India  
12 A. & B. Russel Street,  
Calcutta-700071
4. The Deputy Director General  
Geological Survey of India,  
Operation Orissa, Unit No.8, Nayapalli,  
Bhubaneswar-12.
5. The Administrative Officer/D.D.O.  
Geological Survey of India, Operation Orissa,  
Unit No.8, Nayapalli, Bhubaneswar-12

...

Respondents

By the Advocates : Mr.B.N.Mohanty

ORDER

MR.G.NARASIMHAM, MEMBER(J): Applicant, Narendra Prasad Panigrahi joined in the Geological Survey of India on 1.2.1977 as an un-skilled contingent worker and continued so till 31.3.1983. From 1.4.1980 till 31.3.1983 he was a semi skilled contingent worker. Thereafter till 6.6.1988 he worked as skilled contingent worker. From 7.6.1988 onwards he functioned as L.D.C. In Annexure-9, published on 21.11.1989 he was shown as an L.D.C. under Sl. No.8. However, his services have not been regularised.

In this application filed on 7.9.1994 his grievance is that Res.4, by order dated 16.8.1994(Annexure-12) appointed him as a Cleaner which is a Class-IV post, though he has been continuing as a Clerk all through. He is a Graduate and is qualified for the post of Clerk. He is also continuing as a Clerk against the regular post. In fact one of the contingent employees, viz., Padmanav Naik, working in the same establishment, preferred Original Application No.616/93 before this Tribunal praying for regularisation of his services. By judgment dated 24.4.1994 (Annexure-10) this Tribunal directed for regularisation of his services in the post of L.D.C. from the date of appointment. Pursuant to that judgment Shri Naik's service has been regularised by order dated 8.8.1994 (Annexure-11). Hence the applicant prays for quashing of his appointment order as a Cleaner under Annexure-12 and for regularisation of his service as L.D.C. with effect from 1.2.1977 and

consequentual benefits thereon.

2. According to respondents Annexure-9 is not seniority list of the workers, but the list of Contingent Workers working in different posts. From 1982 Staff Selection Commission has been conducting examination for regularisation of adhoc L.D.Cs working in various Central Government offices. The applicant, however, did not choose to appear in such examination. Since such examinations are conducted for regularisation to the post, question of the applicant being regularised would not arise. This apart, when he joined on 1.2.1977, his name was not sponsored by any employment exchange. It was only on 21.3.1983, on being directed by the department, the employment exchange sponsored his name and this was also for the limited purpose of his continuation on contingent basis.

3. It is not in dispute that in the list dated 29.11.1989 (Annexure-9) Padmanav Nayak, applicant in O.A.616/93 has been shown as L.D.C. under Sl. No. 3 and the present applicant as L.D.C. under Sl. No. 8. It is also not in dispute that at least from 7.6.1988, he served as L.D.C. though on contingent basis.

We have carefully gone through the case record of O.A.616/93 disposed of on 27.4.1994. The facts reveal that the applicant Padmanav Nayak joined under Geological Survey of India as contingent worker on 30.10.1975. He was converted to semi-skilled worker from 1.1.1979 to

13  
31.12.1981 and thereafter has been continuing as L.D.C. On his prayer for regularisation of service, the department had taken the plea that he had crossed the prescribed period of age by the time he acquired qualification for appointment to the post of L.D.C. and that he did not appear in the selection being conducted by the Staff Selection Commission. The then Division Bench of this Tribunal relying on the decision of the Apex Court in **Bhagawati Prasad v. Delhi State Mineral Development Corpn.** (AIR 1990 SC 371) and also taking note of the direction of the Apex Court in AIR 1986 SC 584, relaxed the age bar and directed the respondents to regularise him in the post of L.D.C. from the date of order of appointment. There was also further direction that basic pay scale with additional D.A. etc. as drawn by the L.D. Clerk should be paid to him in accordance with the judgment of Hon'ble Supreme Court in AIR 1986 SC 584 (**Surinder Singh vs. Union of India & Others**) and AIR 1987 SC 2342 (**Bharatiya Dak Tar Mazdoor Manch vs. Union of India & Others**).

We are of the view that the case of the applicant Narendra Prasad Panigrahi is ~~almost~~ similar to that of Padmanav Naik and the judgment in Padmanav Naik's case is applicable to the case of the applicant.

4. The applicant having worked as L.D.C. at least from 7.6.1988 with his educational qualification as a Graduate deserves to be regularised in that cadre. We have, therefore, no hesitation to quash the order dated

14  
✓  
✓  
5  
16.8.1994 (Annexure-12) posting him as a Cleaner in Class-IV cadre.

We accordingly direct respondents to relax the age of the applicant and regularise his services as L.D.C. with effect from 7.6.1988 and pay differential emoluments as directed in O.A.616/93 within a period of sixty (60) days from to-day.

In the result the application is allowed, but without any order as to costs.

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
6.7.92

B.K.SAHOO

*G. Narasimham*  
(G.NARASIMHAM)  
MEMBER (JUDICIAL)