

5
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No.638/94

Date of Decision: 15.2.1995

Babaji Beura

Applicant(s)

Versus

Union of India & Others Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? No
2. Whether it ~~be~~ circulated to all the Benches of the Central Administrative Tribunals or not ? No.

Kashish 15/2/95
MEMBER (ADMINISTRATIVE)

b 6

CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No. 638 of 1995
Cuttack this the 15th Day of February, 1995

C O R A M:

THE HONOURABLE MR. N. SAHU, MEMBER (ADMINISTRATIVE)

Babaji Beura, aged about 43 years
S/o. Late Jojn Beura,
At : Dalimbagirada, PO: Konark
Dist: Puri

Applicant/s.

By the Advocate : M/s. B. Nayak
A. K. Dora

Versus

1. Union of India, represented through
the Secretary, Ministry of Human
Resources and E.D.
Sastri Bhawan, New Delhi

2. Superintending Archaeologist,
Archaeological Survey of India,
Calcutta Circle, Salt Lake City
Block DF, Fourth Floor
Multistoried Office Building
Calcutta-700064 (West Bengal)

3. Superintending Archaeologist
Bhubaneswar Circle, Old Town
Bhubaneswar Temple Road
Bhubaneswar-751002

Respondent/s.

By the Advocate: Shri Ashok Mishra,
Sr. Standing Council (Central)

...

O R D E R

MR. N. SAHU, MEMBER (ADMN): This is a petition under Section 19
of the Administrative Tribunals Act, 1985, seeking a
direction to Respondent-3, the Superintending
Archaeologist, Bhubaneswar Circle, Old Town, Bhubaneswar,
for a fresh appointment to the applicant either as
a casual labourer or in temporary status as a Monument

7

Attendant.

2. The brief facts and back ground of this case are that the applicant was appointed as a Monument Attendant on 4.11.1971, against a temporary vacancy on temporary basis. Under the contract of appointment, his services can be terminated ^{at} one months' notice. His service was terminated accordingly on 13.4.1973 on the ground of absence from duty for a day without reasonable cause. After a gap of 10 years, he filed a Writ Petition in the Hon'ble High Court of Orissa (OJC no.176 of 1984) seeking a fresh appointment. This case was dismissed by the High Court vide order dated 8.8.1994. 21 years after his termination he is filing this application before this Tribunal.

7

3. It is seen from the facts that the termination from services of the applicant is a termination simplicitor in accordance with the conditions of appointment. He has admitted his negligence of duty and he had also acquiesced in the punishment awarded to him. He has not preferred any appeal. He now seeks a fresh appointment.

4. It is stated in the counter-affidavit that under the Archaeological Survey of India Recruitment Rules, the maximum age of appointment to the post of Monument Attendant is 30 years, provided the candidate is an Ex-Serviceman. Since the applicant's age is 43 years, he is no longer qualified for consideration of appointment to the post. It is further submitted on

behalf of the Respondents' counsel Shri Ashok Mishra that the applicant cannot also be engaged as casual labourer as there is no vacancy at the moment.

5. I have carefully considered the submissions of rival counsel. The fact remains that the applicant has moved this Tribunal after 21 years. Secondly, he has acquiesced in the order of dismissal in the first instance, but, even the appeal filed by him before the High Court was dismissed. The fact that it was a termination of appointment simplicitor without any stigma all the more strengthens the case of the respondent. Since this was not^a case of major penalty the applicant cannot claim protection Under Article 311(2). It is however urged by the counsel that the applicant had put in 12 years of service as a casual labourer, although the records show that he was posted as Monument Attendant from 4.11.1971 onwards. The counsel submitted that as a token of recognition of the applicant's past service, the respondents may be directed to consider his case for appointment, even as a casual labourer.

6. It will not be appropriate to give any such direction in a case of this type. Even for appointment as casual labourer, there are specific guidelines which have to be followed.

7. In this case, however, the restrictions of age need not apply because it is not a case of fresh recruitment. If Respondent 3 thinks that his

organisation can benefit out of the past experience of the applicant and if other guidelines permit, he may consider the application of the petitioner on merits for the job of a casual labourer as and when the need arises.

Subject to the above observations the application is dismissed. No costs.

Narasimha Sahu
(N. SAHU) 15/2/95
MEMBER (ADMINISTRATIVE)

B.K.Sahoo//