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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 665 OF 1994.

Cuttack, this the 7th day of July, 2000.

NATABAR DAS.

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APPLICANT.

VRS.

UNION OF INDIA & ORS.

....

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 SOM
 VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 665 OF 1994.
Cuttack, this the 7th day of July, 2000.

C O R A M:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN
A N D
THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDICIAL)

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NATABAR DAS, Aged about 45 years,
Son of late Shyama Das of Vill.
Singada, Po; Kenduapada, Ps/Dist; Bhadrak. Applicant.

By legal practitioner; Mr. Satnughana Das, Advocate.

- Versus -

1. Divisional Manager, South Eastern Railway,
Khurda Road, At/Po/Dist; Khurda.
2. Divisional Personnel Officer,
South Eastern Railway,
At/Po/Dist; Khurda.
3. Assistant Personnel Officer,
South Eastern Railway,
At/Po/Dist; Khurda.
4. Divisional Railway Manager,
South Eastern Railway, Khurda Road,
At/Po/Dist; Khurda.
5. Assistant Engineer, SE Railway,
Khurda Road, At/Po/Dist; Khurda.
6. Permanent Way Inspector,
J.D. Construction, SE Railway,
Khurda Road, At/Po/Dist; Khurda.

: Respondents.

By legal practitioner; Mr. D. N. Mishra, Standing Counsel (Rlys.)

O R D E RMR. SOMNATH SOM, VICE-CHAIRMAN:

In this original Application the applicant has prayed for a direction to the Assistant Engineer, South Eastern Rly. Khurda Road and the Permanent Way Inspector, J.D. Construction S. E. Railway, Khurda Road for giving appointment to the applicant as casual labour and not to terminate his services just after the appointment is made.

2. Respondents have filed counter opposing the prayer of the applicant.

3. Applicant's case is that he worked as Casual Khalasi/ Gangman from 3-9-1980 to 23-11-1982 and he was issued with a record of service (Annexure-1) in which this engagement has been recorded and certified by the Permanent Way Inspector, JD Construction, S. E. Railway, Khurda Road. Applicant had stated that he was again engaged from 28.8.1985 to 21.10.1985 as per record at Annexure-2. It is stated that after the above appointment, he was never given any other appointment & as he seriously ill and bedridden he could not contact the Departmental Authorities. He filed representation in January, 1993 seeking engagement as casual worker and this representation along with endorsement of the Assistant engineer, dated 29.1.93 is at Annexure-4. Applicant's grievance is that he never received any other appointment order and his representation was not considered and that is why he has come up in this original Application with the prayers referred to above.

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4. Respondents in their counter have stated that because of long passage of time of 20 years and nonavailability of records it is not possible to verify if the applicant was given engagement from 3-9-1980 to 23-11-1982. They have also stated that the application is barred by limitation because of long passage of time and is also not maintainable because Union of India has not been arraigned as a party through General Manager of SE Railway. The other averments made by the Respondents would be referred while considering the submissions made by the applicant. Heard counsel. It has been submitted by Mr. D.N. Mishra, learned Standing Counsel for the Railways that the last time the applicant got engagement under the Railway was as Mansoon patrolling from 26.8.85 to 21.10.85. Thereafter, in 1986, 1987 and 1988, he did not turn up and naturally was not given any engagement. Applicant has mentioned that as he was seriously ill and was bed-ridden, in support of which he has given medical certificate, J.W.M. he would not approach the Authorities for engagement as casual worker. It is not for the Departmental Authorities to search out the applicant and issue the letter of engagement to him. According to the learned Standing Counsel for the Respondents, departmental instructions provide that if a casual labour does not turn up for engagement for two years, then his name is to be deleted from the live casual register. From the pleadings of the parties it is not clear if the name of applicant was ever included in the live casual register. After passage of more than nine years from his last engagement in 1985, the applicant can not approach and lay a claim that because of his engagement in the year 1980 to 1982 and again in 1985, he must be provided with engagement.

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It is mentioned by learned Standing Counsel that the live Register is maintained for disengaged casual workers and when there is need for engagement of casual workers, persons from such casual register are engaged. It is also submitted by him that at present the live register in the concerned wing is fully exhausted. In view of the fact that the applicant is a disengaged casual worker, in case the Departmental Authorities engages casual workers and incase the applicant applies for the same, then subject to his physical fitness and all other conditions in accordance with rules, his case for engagement should be considered as a disengaged casual worker. The other prayers of the applicant are held to be without any merit and are rejected.

5. In the result, the OA is disposed of with the observations and directions made above. NO costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

KNM/CM.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN