

CENTRAL ADMINISTRATIVE TRIBUNAL

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.819 OF 1994

Cuttack, this the 23rd day of November, 2000

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. NARASTHMHAM)

MEMBER (JUDICIAL)

Somnath Som.
SOMNATH SOM
23.11.2000
VICE-CHAIRMAN

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CORAM:

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

1. Abhimanyu Naik, son of Dhadia Naik, at/PO-Patia, P.S-Sahidnagar, Dist.Khurda.
2. Nrusinghanath Nayak, son of Madhusudan Nayak, At-Naranabhata, PO-Kanti, P.S-Pipli, Dist.Puri.
3. Harekrishna Muduli, son of late Rasananda Muduli, At/PO-Dhaleswar, P.S-Nimapara, Dist.Puri.

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Applicants

Advocates for applicants - M/s H.P.Rath
D.K.Dey

Vrs.

1. Union of India, represented through the Secretary, Ministry of Communication, Government of India, New Delhi-110 001.
2. The Chief Post Master General, Orissa Circle, At/PO-Bhubaneswar-751 001, Dist.Khurda.
3. Senior Superintendent of Post Offices, Bhubaneswar Division, At/PO-Bhubaneswar-751 001, Dist.Khurda.
4. Senior Postmaster, Bhubaneswar, G.P.O. At/PO-Bhubaneswar-751 001, Dist.Khurda.

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Respondents

Advocate for respondents - Mr.S.B.Jena
ACGSC

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this application, the three petitioners have prayed for a direction to the respondents to grant them temporary status by treating them as full time casual workers and to allow them consequential benefits of bonus,etc., in accordance with the Department of Post's circular dated 12.4.1991.

2. According to the applicants, applicant no.1 has been working as Sweeper from 1.1.1984 on part time casual basis and continuing till date in the office of Senior Post Master, Bhubaneswar and performing six hours duty per day. Applicant nos. 2 and 3 are working as Watermen from 11.1.1986 and 1.9.1984 respectively and performing five hours duty per day on part time casual basis. They have alleged that the respondents have engaged some other persons as Waterman and Sweeper subsequent to appointment of the applicants even though the applicants could have been given eight hours duty and made full time casual workers. They have stated that in accordance with the scheme dated 12.4.1991, circulated in letter dated 27.4.1991 (Annexure-3) they are required to be conferred temporary status and on acquiring temporary status, they would be entitled to certain service benefits as laid down in the circular dated 12.4.1991. They have further stated that Central Administrative Tribunal, Ernakulam Bench in the case of M. John Rose v. H.R.O., R.M.S. Trivandrum Division, reported in 1992 (2) SLJ (CAT) 243, have held that even part-time casual workers are entitled to be granted temporary status. Their representations in this regard have not been considered and that is why they have come up in this petition with the prayer referred to earlier.

3. Respondents in their counter have admitted that the three petitioners have been working as part-time contingent paid workers from 1.8.1985, 1.10.1986 and 1.9.1984 respectively. They have stated that according to the scheme, only full time casual labourers are entitled to be conferred with temporary status and therefore, the

cases of the applicants do not come within the four corners of the Scheme. They have further stated that the petitioners had earlier approached the Tribunal in OA No. 44 of 1991 and the Tribunal in their order dated 19.10.1993 (Annexure-R/1) directed the respondents to consider the cases of the applicants at appropriate time in accordance with the rules. With regard to engagement of number of contingent paid workers overlooking the cases of the applicants for increasing their working hours, the respondents have stated that no such casual labourers have ever been engaged. There was only a single case of engagement of part time contingent paid worker during December 1993 exclusively meant for Speed Post Concentration Centre at Bhubaneswar G.P.O. They have stated that need for deployment of this contingent paid worker arose in view of introduction of Speed Post Consumer Cell at Bhubaneswar. At that time the cases of the applicants were examined and it was not found convenient to utilise their services for the above job by giving them extra work because the nature of function and hours of attendance in respect of the applicants are quite different from the job in the Speed Post Concentration Centre. On the above grounds, they have opposed the prayer of the applicants.

S. Som

4. We have heard Shri H.P.Rath, the learned counsel for the petitioners and Shri S.B.Jena, the learned Additional Standing Counsel for the respondents and have also perused the records. In support of his contention the learned counsel for the petitioners has relied on the following cases:

(i) Smt.Sakku Bai v. Secretary, Ministry of Communication, ATFB Judgments 1991-93 page

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page 18;

(ii) M.John Rose v. HRO, RMS, Trivandrum
Division, 1992 (2) SLJ (CAT) 243; and
(iii) S.Ramakumari v. Union of India, decided
by this Bench on 28.6.1999, OA No.963 of
1996.

We have gone through these decisions.

5. From the above recital of pleadings of the parties it is clear that engagement of the applicants as part time casual workers for long years under the respondents is not in controversy. It is also admitted that under the Scheme dated 12.4.1991 temporary status has to be conferred on casual labourers on employment as on 21.11.1989 who continue to be currently employed and who have rendered continuous service of at least one year and during the year they must have been engaged for a period of 240 days which is reduced to 206 days in cases of offices observing five day week. The only controversy in this case is that the respondents have stated that the above benefit of conferment of temporary status is allowable only to full time casual labourers and not to part time casual labourers.

S.Jam. In support of their contention they have relied upon the Directorate's letter dated 16.8.1991 (Annexure-R/2) in which it has been laid down that part time casual labourers are not covered by the Scheme. We have considered the submissions made by the learned counsel of both sides. It is clear from the above that the only point of controversy in this case is whether part time casual workers are entitled to the benefit of conferment of temporary status

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in accordance with the scheme dated 12.4.1991. This point came up for consideration in M. John Rose's case (supra) before a Division Bench of Ernakulam Bench of the Tribunal and their decision in favour of part time casual workers was upheld by the Full Bench of the Tribunal in Smt. Sakku Bai's case (supra). The same matter came up in connection with two part time casual workers of P & T Dispensary, Cuttack, in OA No. 963 of 1996 which was allowed in order dated 26.6.1999. In this order the decisions of Ernakulam bench and Full Bench have been taken note of and it has been held that part time casual workers are entitled to be given the benefit of the scheme dated 12.4.1991. In view of the above, we hold that the applicants are entitled to be conferred with temporary status in accordance with the scheme dated 12.4.1991.

6. In consideration of all the above, the respondents are directed to confer temporary status on the applicants in terms of the scheme dated 12.4.1991 within a period of 90 (ninety) days. Needless to say that with conferment of temporary status, the petitioners shall be entitled to the benefit given to such temporary status workers under the Scheme.

7. In the result, therefore, the Original Application is allowed in terms of our observation and direction above but without any order as to costs.

(G. NARASIMHAM)

MEMBER (JUDICIAL)

November 23, 2000/AN/PS



S. Somnath Som
(SOMNATH SOM)

23.11.2000
VICE-CHAIRMAN