

3

O.A. 227 / 95-
(A)

(3)

Serial
No. of
OrderDate of
Order

Order with Signature

Office note as to
action (if any)
taken on order10. 15/2
2001.

At the request of Lt. Counsel for both sides adj. to 28.2.2001 for Peremptory hearing. No further time will be allowed, and on that day the matter will be disposed of even in the absence of Lt. Counsel of either side.

Vice-Chairman
15/2
Members (5)

A.D. not returned.
For brother's orders.

Sub
19/1

2 copies

A-Ds returned from all respts. Counter not filed for orders

11. ORDER DATED 28.2.2001.

Heard Mr.H.M.Dhal, learned counsel for the applicants and Mr.B.Pal, learned Senior Counsel appearing for the Respondents and have also perused the records.

2. In this Original Application, 95 applicants who have been permitted to pursue this O.A. jointly have prayed for a direction to the Respondents to implement the order dated 26.4.1989 at Annexure-1 with regard to the applicants and to direct the Respondents to pay them their arrears from 1.4.1973 in the scale of pay as revised from time to time.

Sub

Sub
7.8.95

Registrar

Order dt. 8.8.95

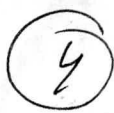
Counter by four weeks.

Registrar

Respts. has no app. arrears counter not filed.

Sub
7/9

Registrar



4

(A)

OA. 227/95

Serial No. of Order	Date of Order	Order with Signature	Office note as to action (if any) taken on order
Contd. Or. 11. dt. 28.2.01.		<p>3. Respondents have filed their counter opposing the prayers of the applicants. No rejoinder has been filed by the applicants.</p> <p>4. For the present purpose, it is not necessary to go into too many facts of the case and the essential facts are also not in dispute. Applicants' case is that they were initially appointed on different dates mentioned in the original Application in Cuttack-paradeep construction project. Later on they were posted in open line and at the time of filing the application, they were working under different PWIs, Cuttack, and PWI Gorakhnath. Applicants have stated that while they were working as such in the casual establishment their services were regularised against 40% permanent construction reserved posts. Later on in circular dt. 26.4.1989 it was ordered that those casual labourers, who have been regularised against PCR posts their date of regularisation should date back to 1.4.1973. Case of the Applicants is that the three conditions envisaged in the circular is that labourers should be in the roll of construction organisation as on 1.4.1973 and they had rendered three years or more aggregate</p>	<p>order dt. 19.9.95</p> <p>counter with memo of appearance be filed by four weeks.</p> <p>Gr Registrar</p> <p>Repts. have no appearance. counter has not filed.</p> <p>Sub 19/12</p> <p>Regist</p> <p>Order dt. 27.12.95</p> <p>Three weeks further time is granted to file counter.</p> <p>Gr Regist.</p> <p>Repts. have no appearance. counter not filed. For further orders.</p> <p>Sub 16/12</p> <p>Regist</p>

Set
No. 1
OrderDate of
Order

Order with Signature

Contd. Or. 11,
Dt. 28.2.2001.

casual service and they were ⁱⁿ ~~on~~ turn ^{AS from} for regularisation w.e.f. 1.4.1973. In view of this applicants want that they should have been regularised w.e.f. 1.4.1973 in the construction organisation and arrears should be paid to them from 1.4.1973.

5. Respondents ⁱⁿ / their counter have denied the averments of the applicants that they were regularised against PCR posts. They have stated in para 6.3 that applicants were not regularised against PCR posts. They have all been regularised in Open line during 1976, 1978, 1979 and 1980. Respondents have alongwith their counter enclosed a statement at Annexure-1 indicating the names and dates of regularisation of most of the 95 applicants. From this it is clear that they were regularised in open line and not under PCR posts. It is submitted by Mr. Dhal, learned counsel for the applicants that in accordance with the circular dated 26.4.1989 the applicants have a right to get absorbed in construction organisation against 40% PCR posts

order dt 21.11.95

Three weeks as a last chance to file counter.

S
Registrar

counter billed
& copy served
for hearing.

(S.B. Mather)

23/4

Bench

for hearing.

12/11

Bench

A d J. to 18.6.96
for hearing.

17/11

Bench

6

6

(A)

OA-227/95-

Serial No. of Order	Date of Order	Order with Signature
		<p>and therefore, the benefits cannot be denied to them.</p> <p>6. We have considered the above submission of the learned counsel for both sides carefully. Prior to creation of PCR posts on the basis of 40% of average staff strength of preceding three years casual workers working in Construction organisation were entitled to get regularised against openline vacancies. Applicants have stated that they were later on xxxxxx brought over to open line but they xxxx have not indicated when they were brought over to open line from construction organisation. Be that as it may the averments of the Respondents that the applicants have been regularised in open line in 1976, 1978, 1979 and 1980 has not been denied by the Applicants. This is also apparent from the annexure at Annexure-1. As the applicants were regularised in the open line they did not have any right to get considered again for regularisation against PCR posts in construction organisation. The circular about getting back of regularisation of PCR posts who have been regularised earlier came up</p>

Adj- to 24-6-96
for hearing.

~~Pat~~
21/6 Bench

For hearing
~~Pat~~
28/6 Bench

Adj- to 14-8-96
for hearing.
~~Pat~~
13/8 Bench

For hearing.
~~Pat~~
22/11 Bench

For hearing.
~~Pat~~
14/2 Bench

For hearing.
~~Pat~~
27/2 Bench

7

OA-227/95

2

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Free copy
of the order
dt. 28.2.01
given to the
both counsel.

[Signature]

[Signature]
S-0

because the actual order of regularisation of
PCR posts was issued sometime in 1989 ~~and therefore,~~
even though posts were created w.e.f. 1.4.1973 *Jm*
that is why the dating back order was given to
those who have already been regularised.

7. In view of the above, we hold that the
applicants have ~~not~~ been regularised in open line
prior to 1989 *Jm* and therefore, can not claim that
their regularisation should be dated back to
1.4.1973 that too in construction organisation.
The prayer is therefore, held to be without any
merit.

8. In the result, therefore, the Original
Application is dismissed. No costs.

[Signature]
(G. NARASIMHAM)
MEMBER (JUDICIAL)

[Signature]
(SOMNATH SOM)
VICE CHAIRMAN

KNM/CM.