

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CUTTACK BENCH

Original Application No. 387 of 1995
Cuttack this the day of February, 1998

Chittaranjan Mallick ... Applicant(s)


-VERSUS-

Union of India & Others ... Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not ?


(SOMNATH SOM)
VICE-CHAIRMAN


(S.K. AGARWAL) 13/2/98
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL, CUTTACK BENCH

Original Application No. 387 of 1995
Cuttack this the day of February, 1998

C O R A M:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

THE HONOURABLE MR. S.K.AGARWAL, MEMBER (JUDICIAL)

...

Chittaranjan Mallick, aged
about 28 years, S/o.Durga
Charan Mallick, of Village:
Badapandusara, P.S.Nayagarh
District:Nayagarh, Ex-Casual
Sweeper, Telecom Civil
Circle, Bhubaneswar

...

By the Advocate:

Applicant

M/s. M.M. Basu
S.S.Mahapatra
K.C.Kanungo

-VERSUS-

1. Union of India
represented through its
Secretary, Ministry of
Telecommunication,
Telecommunication Department,
Sanchar Bhawan,
Central Secretariat
New Delhi
2. Superintending Engineer,
Telecom Civil Circle,
Department of Telecommunication,
Bhubaneswar, Dist:Khurda
3. Executive Engineer
Telecom Civil Division
Administrative Building
3rd Floor, Unit-IX
Bhubaneswar, Dist:Khurda
4. Sri Niranjan Nayak
Sweeper on Contract Basis
Office of the Superintending
Engineer, Telecom Civil Circle,
Department of Telecommunication,
Bhubaneswar, Dist:Khurda

...

By the Advocate:

Respondents

Mr.Akhaya Kumar Mishra,
Addl.Standing Counsel
(Central)

O R D E R

MR. S.K. AGARWAL, MEMBER (J):

This is an application under Section 19 of the Administrative Tribunals Act, 1985, with the prayer that applicant be appointed against the post of Sweeper in the Establishment of Respondent Nos. 2 and 3 and if there is no such post, post may be created so as to regularise the services of the applicant against such post.

2. In brief the facts of the case as stated by the applicant are that the petitioner was appointed by Respondent No.2 as Sweeper on part-time basis with effect from 1.3.1987 on a consolidated pay of Rs.125/- per month. This consolidated pay was increased by the Respondents at the rate of Rs.300/- per month vide Annexure-2, Rs.413/- per month vide Annexure-3 and Rs.430/- per month vide Annexure-4. It is submitted that the applicant has rendered dedicated service for the period of four years, but instead of regularising him Respondent No.3 called upon the applicant to submit quotations in the month of June, 1994, with the assurance that if the applicant submits quotation, the employer shall also invite similar quotations from others and in this process the applicant shall get hike in the salary. On the basis of this assurance the applicant also submitted quotation and he was engaged to clean the entire 3rd floor and telecom administrative building on a consolidated contractual basis of Rs.660/- per month vide Annexure-5. It is also submitted that in the month of March, the

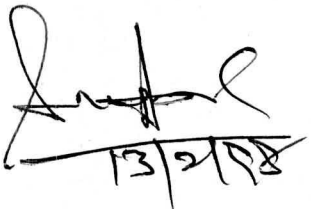
[Signature]
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respondents again invited quotations and engaged one Shri Niranjan Nayak on the pretext that the contractual fees quoted by him was the lowest and thus the applicant's services were terminated with a stroke of pen without exhibiting any consideration or sympathy on him. Aggrieved by this removal the applicant filed an Original Application No.530/92. While disposing of the said Original Application, Hon'ble Tribunal vide its order at Annexure-9 directed that applicant's application be considered along with other applicants while attaching due weightage to the experience gained by him. It is also submitted that applicant was required to clean premises whose floor area was more than 4000 sq.fts. and for this a post of Sweeper must be created, but Respondent Nos. 2 and 3 converted the said post of Sweeper to a contract basis. It is submitted that in this case the applicant was exploited for continuous period of five years with the allurements of better prospect and future. It is a well settled law that a citizen of India is entitled to Equal Pay for Equal Work and after doing continuous service for the period of five years the applicant is entitled to regularisation on the basis of experience gained by him in between 1987 to 92. In this way the applicant has prayed before this Tribunal that he be appointed against the post of Sweeper in the Establishment of Respondent Nos. 2 and 3 and if there is no post, the post must be created so as to


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regularise the services of the applicant against such post.

3. Counter was filed by the Respondent Nos. 1, 2 and 3. In the counter the Respondents have denied all the allegations and stated that the petitioner was only working as part-time Sweeper to sweep the office premises. Initially the applicant was paid consolidated salary at the rate of Rs.125/- per month. But it was increased to Rs.300/- per month, thereafter Rs.413/- per month and at the end Rs.430/- per month respectively. Thereafter the respondents invited quotations and the petitioner also participated in filing the quotation and his quotation being the lowest he was engaged to clean the third floor and administrative building on consolidated contractual amount of Rs.660/- per month. It is also stated that the applicant, as per departmental instructions, does not fulfil the necessary conditions for conferring him temporary status Mazdoor and so also he is not entitled to regularisation. It is also stated that he was not a daily rated mazdoor and was not engaged prior to 3.3.1985, but was engaged on contract basis on consolidated wages paid through cooli voucher. Later on he participated in the quotations also with others and he was again engaged at the rate Rs.660/- per month for the period of 12 months in the year 1991. In the year 1992, he has also

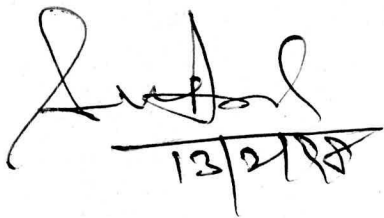

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participated in tender call, but his tender was not lowest. Therefore, it was not accepted. Later on similar quotations were also invited, but the applicant did not participate. It is also submitted that engagement on part-time basis was abolished by the department and there was a ban to engage any casual worker vide D.G. letter dated 30.3.1985 and the applicant was engaged as contract Sweeper and not as casual mazdoor. Therefore, he is not entitled to any relief sought for. Therefore, on the basis of the counter filed by Respondent Nos. 1 2 and 3, it was prayed that this Original Application filed by the applicant be dismissed with cost.

4. No counter has been filed by Respondent No.4 in this case.

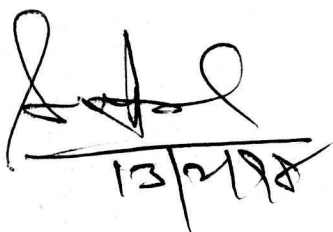
5. We have heard the arguments of both the parties and perused the case file thoroughly. The prayer of the applicant is that he be appointed against the post of Sweeper in the Establishment of Respondent Nos. 2 and 3 and in the absence of any sanctioned post, Respondent Nos. 1 to 3 be directed to create the post and to regularise the services of the applicant against the said post.

6. On a perusal of the petition and annexures filed by the petitioner it reveals that petitioner was working as part-time Sweeper to sweep the office premises. Initially the applicant was paid


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consolidated pay at the rate of Rs.125/- per month, but it was increased to Rs.300/- per month thereafter and at the end Rs.430/- per month. Later on the petitioner was engaged to clean the third floor and administrative building on consolidated contractual payment of Rs.660/- per month. It is also evident that the applicant by virtue of his engagement in the department of respondents on contractual basis for sweeping work did not fulfil the conditions necessary to confer him the temporary status. As per the scheme issued by the department of Telecommunications for grant of temporary status and regularisation vide No.269-10/89-STN dated 7.11.1989 the applicant was not entitled to confer temporary status and regularisation in service as this scheme is applicable to daily rated mazdoor having engaged prior to 30.3.1985 and are continuing without any break. In the instant case the applicant was not a daily rated mazdoor and was not engaged prior to 30.3.1985, but was engaged on contractual basis on consolidated wage through cooli voucher.

7. Moreover the applicant himself has participated in quotation call along with others and was given sweeping work at the rate of Rs.660/- per month for the period of 12 months in the year 1991. In the year 1992, he had also participated in tender call but he was not successful as his tender was not lowest. A similar quotation call notice was also issued to petitioner on 30.9.1993 for sweeping work on job

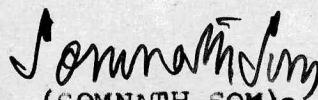

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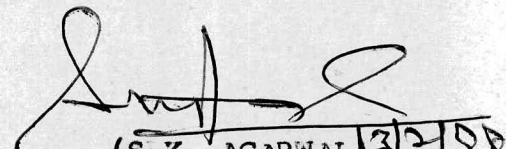
contract basis for the year 1993-94 in pursuance of this Tribunal's order passed, but the petitioner did not participate in the said process. A registered notice was also issued to the petitioner to take part in the interview for engagement of Sweeper on contract basis for the year 1994-95, but he did not turn up for the interview and also did not submit any quotation in response to quotation call notice for the sweeping work on contract basis. As the said engagement was on contract basis, we find that there is no basis to confer temporary status on the applicant and to regularise him in the post and to create the a post of Sweeper for that purpose. Letter No.269/39/84-STN dated 14.8.1984 also reveals that engagement on part-time basis was abolished by the department. It is also evident that no order has been passed by the department in favour of the applicant to appoint him on part-time basis and there was a ban on engagement of any casual worker vide D.O.T. letter dated 30.3.1985. Therefore, on the basis of whole material produced before the Tribunal it can only be said that the applicant was engaged only contract Sweeper and not as a casual mazdoor.

As the applicant fails to make out a case that temporary status can be conferred upon him so as

to regularise in the post of Sweeper in the department,
therefore, the Original Application filed by the
applicant is liable to ^{be} rejected.

Therefore, the application is rejected
with no order as to costs.


(SOMNATH SONI)
VICE-CHAIRMAN


(S.K. AGARWAL) 13/2/88
MEMBER (JUDICIAL)

B.K.Sahoo/C.M.