

13

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 630 OF 1995.  
Cuttack, this the 8th day of September, 2000.

Ramesh Chandra Das.	....	Applicant.
	vis.	
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.*  
(SOMNATH SOM)  
VICE-CHAIRMAN

14

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 630 OF 1995.  
Cuttack, this the 8th day of September, 2000.

C O R A M:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDICIAL).

..

Ramesh Chandra Das,  
Son of Sri Raghunath Dash,  
Permanent Resident of village Katarapa,  
PO: Mohana, Via. Rameshwar, PS: Salipur,  
Dist: Cuttack.

... Applicant.

By legal practitioner: M/s. A.S. Naidu, P.K. Mohapatra, R.K. Patnaik,  
Advocates.

- Versus -

1. Union of India Ministry of Agriculture,  
Department of Agriculture and Cooperation,  
represented through the Director,  
National Biofertilizer Development Centre,  
204, B wing, CGO Complex-II, Kamala  
Nehru Nagar, Gaziabad-2, UP.
2. Regional Director,  
Regional Biofertilizer Development Centre,  
A-156-Sahid Nagar, Bhubaneswar-7,  
Dist: Khurda, Orissa.

... Respondents.

By legal practitioner: Mr. S.B. Jena,  
Additional Standing Counsel (Central).

S. Som.

ORDER

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application under section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for a direction to the Respondents to regularise his services taking into account his entire period of service from 1989 and the scheme formulated by the Government of India at Annexure-4. By way of interim relief, it was prayed that the Respondents should be directed to allow the applicant to discharge his duties in the post in which he has been appointed. In order dated 27.10.1995 prayer for interim relief was allowed for a period of 14 days and this order has apparently continued till date.

2. Applicant's case is that he joined as a casual labourer in the Office of the Regional Director, Regional Biofertilizer Development Centre, Bhubaneswar on 1.5.1989, after he was successful in an interview. His initial appointment was for a period of three months on 1.5.1989. In order dated 6.8.1989 at Annexure-1, the applicant was appointed temporarily in the post of Chowkidar for a period of three months with usual allowances. Again in order dated 16.11.1989 (Annexure-2), he was given further appointment for a period of three months. After this period of 90 days, from 16.11.1989 his appointment as Chowkidar was not extended. But the Respondents engaged him as a casual labour and he was assigned the duty of chowkidar from 1.30 AM to 9.30 AM. As the applicant had no other job, he accepted the above casual appointment and applicant has stated that ever since his initial appointment from 1.5.1989 he has been working under the Respondents. In 1994, in order dated 8.4.1994, at Annexure-3 fresh duty chart was given to

the casual labourers including applicant. While the matter stood as such, the Department of Personnel, introduced a scheme dated 10.9.1993 which is at Annexure-4 for grant of temporary status and regularisation of casual workers. Applicant filed representation on 26.9.1995 for regularisation but immediately after receipt of his representation his services were terminated and no action was taken on his prayer for regularisation. Applicant has stated that persons much junior to him in service and those who were initially appointed only in 1995 were however, retained in service. In the context of the above facts, applicant has come up in this Original Application with the prayers referred to earlier.

3. Respondents have filed counter opposing the prayer of the applicant. The stand taken by the Respondents is that the applicant was appointed as Chowkidar in order dated 6.9.89 for <sup>the period</sup> ~~not~~ exceeding three months or till such time another suitable candidate is selected by the DPC. His services were terminated strictly in accordance with the terms and conditions of his appointment. Respondents have stated that according to the Government instructions casual labourers can not be engaged on daily wage basis in the post having regular nature of work, which is laid down in Personnel Department circular dated 7.6.1988, at Annexure-R/1. In view of this, Respondent No. 2 dispensed with the service of applicant in his letter dated 5.4.1990 at Annexure-R/21. Respondents have stated that there is no record that the applicant was selected in an interview and was engaged as a casual labourer. They have stated that the applicant was given the work on casual basis for a period of three months and therefore, he has no legal claim on the post. Respondents have stated that because of exigencies of work sometime in May,

J Som.

17

98

-4-

1990 he was again engaged as casual labourer. They have stated that the applicant was never engaged between January, 1995 to April, 1995. He was engaged some days in July, 1995 and thereafter he was never worked. Respondents have stated that the applicant got the interim relief by misleading the Tribunal and the Tribunal in their order dated 27.10.1995 allowed the applicant to discharge his duties till the final disposal of this Original Application. Respondents have stated that the applicant can not be appointed to the post of Chowkidar because there is only one post of Chowkidar and that has been filled up and held by one S. Naik till 31.5.1998. They have also stated that the applicant did not have the essential and desirable qualification for appointment as Chowkidar. According to the Respondents the essential qualification for Chowkidar is two years previous experience as Chowkidar in some private or Govt. Institute and the educational qualification of primary school pass. On the above grounds, the Respondents have opposed the prayer of applicant. From the above pleadings of the parties, it is clear that the applicant wants regularisation of his service in terms of Department of Personnel's circular dated 10.9.1993 at Annexure-4. We have carefully gone through this circular. After issuing of this circular there has been subsequent clarification issued by the Department of Personnel which lays down that only such of the casual labourers who have been recruited on being sponsored by the Employment Exchange can be given with temporary status and regularisation. Even in the scheme, a casual labourer can not claim straightaway regularisation on fulfilling the conditions laid down in this circular. He has to be first granted temporary status and after he has worked for three years <sup>as</sup> temporary status

J. Som

worker, he can be considered for regularisation against every two out of three vacancies arising in the post of Gr.D staff in that office. Thus, the prayer of applicant for straightaway regularisation against a Gr.D post is held to be without any merit and is rejected.

4. As regards grant of temporary status, the applicant has not made any averment in the OA that at the time of his initial engagement his name was sponsored through employment exchange. He has merely mentioned that he has appeared at an interview. This assertion has been denied by the Respondents in their counter. In view of this, applicant is not entitled to grant of temporary status as prayed for by him. Learned Addl. Standing Counsel has filed a MA on 3.3.2000 in which he has mentioned that applicant has subsequently been appointed to the post of Chowkidar under the Respondents w.e.f. 4.10.1999 and he had accordingly joined the post. To that extent this petition has also become infructuous. In the result, therefore, we reject the prayer of the applicant for getting the temporary status, and for his regularisation from the initial date of engagement and take note of the fact that he has already been appointed as Chowkidar under the Respondents.

5. In the result, the OA is rejected with the observations made above. No costs.

(G. NARASIMHAM)  
MEMBER (JUDICIAL)

Somnath Som.  
(SOMNATHSOM)  
VICE-CHAIRMAN  
8/9/2000

KNM/CM.