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CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.719 OF 1996  
Cuttack, this the 15th day of January, 1998

Muralidhar Kandi ....

Applicant

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.

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
15/1/98

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.719 OF 1996  
Cuttack, this the 15<sup>th</sup> day of January, 1998

CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN

.....

Muralidhar Kandi,  
aged about 40 years,  
son of late Jalendra Kandi,  
Village-Kurangasasan, PO-Sundargram,  
Via-Khandol, Dist.Cuttack .....

Applicant.

By the Advocates - M/s P.C.Mishra,  
B.Samantray  
P.K.patnaik.

Vrs.

1. Union of India, represented through  
the Divisional Engineer, Telegraphs,  
Bajrakabati Road,  
PO-Buxibazar, Cuttack.1.
2. S.D.O(Telephone) Station Road,  
Balasore, At/PO/Dist.Balasore.
3. S.D.O(Telephone) No.1, Bhubaneswar-751001,  
Dist.Khurda .... Respondents.  
By the Advocate - Mr.Ashok Mohanty,  
Sr.C.G.S.C.

ORDER

SOMNATH SOM, VICE-CHAIRMAN

In this application under Section 19 of  
Administrative Tribunals Act, 1985, the applicant has prayed  
for a direction to the respondents to regularise his services  
on the ground that he has rendered his duty for the last 24  
years. He has also prayed for getting the minimum of the scale  
of pay of Group-D employee as his work is like that of a  
Group-D employee.

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2. Facts of this case, as alleged by the  
applicant, are that he is working at present as a Mazdoor on  
Muster Roll since January 1972 under S.D.O.(Telephone),

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Balasore (respondent no.2). As he has been working continuously as a Mazdoor from 1972 till today, he has prayed for regularisation of his services on permanent basis. He has also prayed for getting pro-rata emoluments at the minimum of scale of pay of Group-D employee. The applicant has further stated that he belongs to Scheduled Castes and is landless and currently he is being paid only Rs.25/- for eight hours work per day though his co-workers are getting the minimum of the regular pay scale. For the above reasons, he has come up with the aforesaid prayers.

3. Respondents in their counter have submitted that the application is barred by limitation as the cause of action has arisen in 1972, according to the applicant himself. It has been further alleged that the applicant has never been engaged as a Mazdoor on Muster Roll. According to the respondents, the Mazdoors engaged on Muster Roll are given Mazdoor Card in which number of days of work is entered by the mustering officials duly countersigned by the Sub-Divisional Officers/Divisional Engineers. These working particulars have not been given. Case of the respondents is that the applicant had never been engaged as a Casual Mazdoor on Muster Roll and he has not been working till date and therefore, the question of his regularisation and getting pro-rata scale of pay does not arise. It has been further alleged that even granting for

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argument's sake that the applicant was engaged in 1972, he cannot come up for regularisation of his services after 25 years. Moreover, engagement of casual workers has been banned in circular dated 7.11.1989 along with which a Scheme for granting of temporary status and regularisation of casual labourers had been issued. According to this, temporary status could be conferred on casual workers who are currently employed and as the applicant is currently not working under the respondents, he cannot get temporary status, much less regularisation of his services. It is further submitted that even granting for argument's sake that he worked as Casual Mazdoor in 1972, break in service for 25 years cannot be condoned under the Rules. On the above grounds, the respondents have opposed the prayers of the applicant.

4. I have heard the learned lawyer for the applicant and Shri Ashok Mohanty, the learned Senior Standing Counsel appearing on behalf of the respondents and have also perused the records. Learned lawyer for the petitioner has submitted that as per Annexure-1 to the O.A., the applicant has worked from January 1972 to December 1972. At Annexure-1 is a certificate issued on 28.1.1991 by S.I., Phones. This, according to the applicant's counsel, goes to show that he has been working under the respondents. Moreover, it is submitted that the respondents in paragraph 4 of their counter (page 4)

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have admitted that the applicant worked as a casual worker under the respondents. The respondents have challenged the authenticity of Annexure-1. They have pointed out that this certificate has been given by an unauthorised person. Moreover, the fact that this certificate about engagement of the applicant as Mazdoor on Muster Roll from January 1972 to December 1972 has been issued on 28.1.1991, i.e., after 19 years, goes to prove that the certificate is not genuine. As regards the averment in paragraph 4 of the counter referred to earlier, the respondents have stated that paragraph 4 must be read as a whole. In this paragraph, the respondents have specifically averred that the applicant was never engaged as D.R.M. on Muster Roll since 1972 till date. They have submitted that the applicant might have worked for a few days as casual worker on the rate prevailing at that time. This, according to the respondents, is no admission by them of engagement of the applicant as D.R.M. on Muster Roll from 1972 till date. From the Scheme of the Department, which is an enclosure to Annexure-R/1, it is seen that regularisation can be done only of casual labourers who had been conferred with temporary status. In this case, the applicant has not been conferred temporary status. Therefore, the prayer for his regularisation straightaway in a Group-D post is without any merit and is rejected.

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5. As regards grant of temporary status, the applicant has not been able to provide any document proving that he is working under the respondents till date. The only document provided by him is the certificate issued in 1991 about his engagement from January 1972 to December 1972. In view of this, it is not possible to hold that the applicant is currently working under the respondents as D.R.M. It is also to be noted that the applicant has not indicated his Muster Roll number. He has also not produced the copy of the Muster Roll card. He has not indicated as to how many days he had worked. All these go to prove that he is currently not in engagement and according to Annexure-1, which is the certificate provided by him, he has worked only from January 1972 to December 1972. It is not possible to consider conferring of temporary status on him because of his engagement under the respondents twenty-four years ago. In view of this, I hold that the prayer for conferring temporary status leading to regularisation is without any merit and the same is rejected. As the applicant is held to be not working under the respondents, the question of his getting wages on pro-rata basis does not arise. His claim for getting wages on pro-rata basis from January 1972 to December 1972 has also become stale with passage of time. In consideration of this, the prayer for getting payment on pro-rata basis is held to be without any merit and is rejected.

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6. In the result, therefore, the Original Application is held to be without any merit and is rejected but, under the circumstances, without any order as to costs.

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VICE-CHAIRMAN  
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