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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH:CUTTACK.

O.A.NO.919 OF 1996

Cuttack, this the 15th day of February, 2002

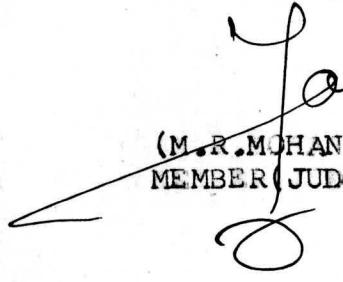
Shiva Narayan Sharma, ... Applicant

Vrs.

Union of India and others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? No
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No


(M.R.MOHANTY)
MEMBER(JUDICIAL)


(S.A.T.RIZVI)
MEMBER(ADMINISTRATIVE)

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CORAM:

HON'BLE SHRI S.A.T.RIZVI, MEMBER(ADMINISTRATIVE)
AND
HON'BLE SHRI M.R.MOHANTY, MEMBER(JUDICIAL)

....

Shiva NarayanSharma,
son of late Mungari Sharma, presently working as
Blacksmith, Office of the Chief Electrical Engineer
(Construction), South Eastern Railway, Chandrasekharpur,
Bhubaneswar, District-Khurda

..... Applicant

Advocates for applicant - M/s H.M.Dhal
P.K.Pattnaik

Vrs.

1. Union of India, represented through the General Manager,
South Eastern Railway, Garden Reach, Calcutta-43.
2. Chief Electrical Engineer, S.E.Railway(Construction),
Chandrasekharpur, Bhubaneswar, District-Khurda.
3. Chief Project Manager, S.E.Railway, Chandrasekharpur,
Bhubaneswar, District-Khurda.
4. Senior Project Manager(Doubling) II, S.E.Railway,
Chandrasekharpur, Bhubaneswar, District-Khurda

..... Respondents

Advocates for respondents- M/s B.Pal & P.C.Panda

....

O R D E R
(ORAL)

S.A.T.RIZVI, MEMBER(ADMN.)

Heard the learned counsel on either side.

Records have also been perused. *D*

2. The respondents refusing to ante-date the regularisation of the applicant with effect from 1.4.1973 has given rise to the present O.A.

3. The facts of this case, briefly stated, are that initially engaged on casual basis with effect from 30.4.1959 under the South Eastern Railway, Jharsuguda, in the Engineering Workshop, the applicant continued as such continuously and without interruption until 7.6.1963. Thereafter, for another period of about five years from 24.9.1964 to 23.3.1969 he was engaged again on casual basis under the Divisional Engineer, Kharagpur. Later the applicant was posted at Kharagpur again in 1970 and while working in that location he was posted in Kendrapara Road where he joined on 31.7.1972. Subsequently, he was brought over to the regular establishment vide respondents' order dated 18.12.1978 and he stood regularised in the post of Khalasi with effect from that date (Annexure 4). Five years later he was confirmed in the post of Khalasi vide respondents' order dated 11.7.1983 (Annexure 5). By a stop-gap arrangement, he was promoted to the post of Blacksmith on 15.9.1987 (Annexure 6). While the matters stood thus, the respondents issued a circular on 26.4.1989 (Annexure 7) which provided for the regularisation of casual labourers with effect from 1.4.1973. The concession extended by the aforesaid circular was made applicable to those who had been regularised on various dates after 1.4.1973. The applicant fulfilled all the conditions laid down therein and was, therefore, eligible for ante-dating of his regularisation with effect from 1.4.1973.

4. The learned counsel appearing on behalf of the respondents has proceeded by disputing the fact in regard to the casual employment of the applicant with effect from 30.4.1959. According to him, the certificates placed at Annexures 1 and 2 and the document at Annexure 3, which seem to indicate that the applicant had rendered service in casual capacity from 30.4.1959 to 7.6.1963 and from 24.9.1964 to 23.3.1969 respectively, cannot be relied upon as authentic documents. According to him, the documents available in the respondents' office disclose that the applicant has been working continuously with effect from 31.7.1972 only. On the basis of this date, the applicant was found by the respondents to be too junior to have been regularised with effect from 1.4.1973. Thus, the present O.A., according to him, has no merit and deserves to be dismissed.

5. We have considered the submissions made by the learned counsel. The respondents' case is that on the basis of the rules/guidelines framed for the purpose, the respondents located only 48 PCR Group D posts for the purpose of ante-dating regularisation with effect from 1.4.1973. The applicant did not figure in the first 48 regular employees in order of seniority and was, therefore, left out. Later, the respondents again made another similar exercise and located some more PCR Group D posts for the purpose of ante-dating regularisation with effect from 1.4.1984. On this occasion also the

applicant was found to be junior and his regularisation could not, therefore, be ante-dated to 1.4.1984. Yet one more exercise undertaken by the respondents resulted in some more PCR Group-D posts being located for the purpose of ante-dating regularisation with effect from 1.4.1988. This time also he was not found to be covered, going by the order of his seniority, and has, therefore, been left out once again. Furthermore, having started continuous service only from 31.7.1972, the applicant had not rendered three years or more of aggregate casual service as on 1.4.1973. In view of this also, he could not claim the benefit arising from the circular, dated 26.4.1989 (Annexure 7).

6. Since the learned counsel appearing on behalf of the applicant had strenuously urged that the applicant had been working as casual labourer or otherwise in casual capacity right from 30.4.1959 and therefore, he had rendered more than three years of casual service as on 1.4.1973, we have given some thought to the kind of evidence relied upon by the applicant in support of his experience with effect from 30.4.1959. The certificate placed at Annexure 1, which has been issued by the Engineering Workshop Foreman, Jharsuguda, shows that the applicant had worked in casual capacity from 30.4.1959 to 7.6.1963. The same position has been affirmed by the subsequent certificate placed at Annexure 2 issued by the Assistant Engineer (Stores), Jharsuguda. We were told that the aforesaid certificates have not been issued under any rules. We were also told that the aforesaid

officers are not competent to issue such certificates. Moreover, there is no record available in the respondents' office in regard to issuance of these certificates. The veracity and the authenticity of these is, therefore, seriously in doubt. The same is ~~not~~ ^{true} of the document placed on record at Annexure 3. Further, there is no evidence whatsoever of the applicant's employment even on casual basis from 24.3.1969 upto 31.7.1972, from which date the applicant has admittedly been working continuously and without break. In view of these considerations, which cannot be brushed aside in the light of the submissions made by the respondents, it is difficult to conclude that the applicant's case is covered by the circular in question, dated 26.4.1989. On these bases also, therefore, it is not possible to find any fault with whatever decision has been taken by the respondents in the matter.

7. In the light of the foregoing, the O.A. is found to be devoid of merit and is dismissed.


(M.R.MOHANTY) 15/02/2002
MEMBER (JUDICIAL)


(S.A.T.RIZVI)
MEMBER (ADMINISTRATIVE)

AN/PS