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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 275 OF 1998
Cuttack this the 25th day of January, 2000

Santosh Kumar Rout

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~~ Central Administrative Tribunal or not ?

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

25-1-2000
(G.NARASIMHAM)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.275 OF 1998
Cuttack this the 25th day of January, 2000

CORAM:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
THE HON'BLE SHRI G.NARASIMHAM, MEMBER (JUDICIAL)

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Santosh Kumar Rout
Son of Rushi Rout
Ex-Casual Labourer,
Telecommunication Department
residentg of Jaranda, PO: Mahimagadi
Dist: Dhenkanal

...

Applicant

By the Advocates : Mr.J.Gupta

-Versus-

1. Union of India
represented through its Secretary
Ministry of Communications
Department of Telecommunications
Sanchar Bhawan
New Delhi-1
2. Chief General Manager
Telecommunications,
Orissa, Bhubaneswar, Dist: Khurda
3. Telecom District Engineer
At/Po/Dist : Sambalpur

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ORDER

MR.G.NARASTHAM, MEMBER(MINTCTAL): Applicant claiming himself to be in continuous engagement as casual labourer from 1.9.1985 to 30.4.1987 under the Respondents (Department) and thereafter being engaged till 1994 as and when need arose, prays in this application for issue of direction to the Department, particularly, Respondent 2 to consider his representation under Annexure-1 dated 14.12.1996 within a stipulated time and to reengage him in view of his previous experience and also to provide regular post as per his turn. He annexes Annexure-1 in support of his averment that he was in continuous engagement from 1.9.1985 to 30.4.1987. On 27.3.1994 he filed representations before Res.2 and 3 for his reengagement on the ground that though newly persons were engaged he was not called for and also for providing him a regular post. Res.3, viz. the Telecom District Engineer recommended his case in letter dated 7.2.1995 under Annexure-3 forwarding Annexure-2 to Respondent No.2. But Respondent No.2 did not pass any order in spite of several approaches by the applicant. Hence another representation dated 14.12.1996 (Annexure-4) was submitted.

2. The Department in their counter while denying the case of the applicant that he was engaged on 1.9.1985 and also denying the genuineness of Annexure-1 take the stand that in view of the ban order (Annexure-R/1) issued by the D.G.(P&T) in letter dated 30.3.1985, no casual labourer could be engaged after 30.3.1985. Casual labourers or Mazdoors were not engaged against any vacant post, but used to be engaged as and when necessary for

short duration or till completion of assigned work. Hence case for regularisation would not arise.

In circular dated 30.11.1990 issued by Respondent No.2 to all the Divisions(Annexure-R/2) it was made clear that such of those casual Mazdoors who were engaged prior to ban order dated 30.3.1985 and retrenched can be reengaged. The applicant, as per his own admission, was engaged for the first time on 30.9.1985. Hence he cannot take advantage of this circular. Even in his own case he was disengaged on 30.4.1987 and there has been thus break in engagement for about 10 years before he filed this application in the year 1998. The representation of the applicant should not have been forwarded to Res.2 by Respondent No.3 as it did not cover the guidelines fixed in circular dated 30.11.1990. The Department had framed a scheme dated 7.11.1985 for casual labourers, who were engaged prior to 30.3.1985 for granting temporary status and regularisation (Annexure-R/4). Guidelines in this circular will not be of any help to the applicant. On these averments the Respondents(Department) pray for dismissal of this application.

No rejoinder has been filed.

3. We have heard Shri J.Gupta, learned counsel for the applicant and Shri B.K.Nayak, learned Addl.Standing Counsel appearing for the respondents. Also perused the records.

Annexure-1 is a statement containing particulars of engagement of the applicant from 1.9.1985 to 30.4.1987. It does not contain the signature of any authority or the seal of any Department. When this was pointed out in the counter with an averment that this Annexure is not

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genuine, the applicant had not filed any rejoinder. Hence it cannot be said that the suspicion entertained by the Department in their counter in this regard is without any basis. Moreover, in his representations dated 27.3.1994(Annexure-1) and 14.12.1996(Annexure-4), the applicant's version is that he has completed 500 days of continuous service from 1.9.1985 to 30.4.1987 and this includes 30 days during the financial year 1987-88. In other words, for whole of April, 1987, he was engaged as casual labourer. Yet under Annexure-2 dated 27.3.1994 he admits that he was removed from service (apparently retrenched) on 30.6.1986 by letter dated 27.5.1985. If he was retrenched with effect from 30.6.1986, it is not understood how as per Annexure-1 he was in engagement even from 1.7.1986 till 30.4.1987. So this itself would speak that Annexure-1 is not at all a genuine document. It is true that the Respondents did not deny the genuineness of Annexure-3, the letter addressed by Respondent No.3, i.e. Telecom District Engineer, Sambalpur to Respondent No.2. In this letter dated 7.2.1995, Respondent No.3 forwarded a representation received from the applicant describing him to be a retrenched Ex-D.R.M., but this letter does not by itself ~~would~~ establish that the statement of particulars mentioned in Annexure-1 are correct and genuine. All that this letter would establish that for sometime, the applicant was engaged as a casual labourer and thereafter diesengaged.

Be that as it may, the fact remains even on the version of the applicant he came into picture as casual labourer from 1.9.1985 itself and as per the Department

Circulars quoted above, there is no provision for reengagement of casual labourers who were engaged after 30.3.1985 despite the ban order. The scheme introduced in the year 1989 is also not applicable to the casual labourers engaged after 30.3.1985.

In the result, we do not see any merit in this application which is accordingly dismissed, but there shall be no order as to costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

25.1.2000
(G. NARASTHAM)
MEMBER (JUDICIAL)

B.K. SAHOO