

17
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO.276 OF 1998
Cuttack this the 8th day of March/2002

Pranab Kumar Routray & others ...

Applicants

-VERSUS-

Union of India & Others

...

Respondents

(FOR INSTRUCTIONS)

Whether it be referred to reporters or not ? Yes.

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

Manoranjan Mohanty
(MANORANJAN MOHANTY) 08/03/2002
MEMBER (JUDICIAL)



CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO.276 OF 1998
Cuttack this the 8th day of March/2002

CORAM:

THE HON'BLE SHRI MANORANJAN MOHANTY, MEMBER (JUDICIAL)

•••

1. Pranab Kumar Routray, son of Chandramani Routray, aged about 28 yrs., Qrs. No.D/196, Sector-8, PO-Rourkela, Dist-Sundergarh, retrenched as Casual Labour as Typist under Telecom District Manager, Rourkela
2. Dilip Kumar Singh, Son of Brahmananda Singh, Qrs.No.H/20, Sector-6, PO-Rourkela-2, Dist-Sundargarh, retrenched casual labour as Peon under the Telecom District Manager, Rourkela, Dist-Sundargarh
3. Krupasindhu Sethy, aged 30 yrs., S/o.Dola Sethy of Telephone Barrick Plant site Road, Rourkela-1, Dist-Sundargarh, retrenched casual labour as Peon, Commercial Section under T.D.M., Rourkela, Dist-Sundargarh
4. Ram Prasad Mahananda, aged 26 yrs., S/o.Sahadev Mahananda, Sector-6, F Block Meher Basti, PO-Rourkela-2, Dist-Sundargarh, retrenched as casual labour as Peon in Commercial Section under T.D.M., Rourkela, Dist-Sundargarh
5. Ramesh Chanda Suna, Son of Saranga Suna, Qrs.No.G/44, Black side, Sector-2, Rourkela, Dist-Sundargarh, retrenched casual labour as Peon, Commercial Section under T.D.M., Rourkela, Dist-Sundargarh
6. Santu Kumar Shrestha, Son of Hari Bahadur Shrestha, Qrs.No.PTN-77, Sector-6, PO-Rourkela, Dist-Sundargarh, retrenched casual labour as Peon, in the Office of the T.D.M., Rourkela, Dist-Sundargarh
7. Amar Kumar Pal, aged 24 yrs, S/o.Bhagaban Pal, Qrs.No.PTN-34, New Colony, Sector-6, PO-Rourkela-2, as Peon in TRA Section in the Office of T.D.M., Rourkela, Dist-Sundargarh
8. Karna Kumar, Son of Dhan Singh, Qrs.No.B/163, Sector-6, PO-Rourkela-2, Dist-Sundargarh, retrenched casual Labour as Peon in Defaulter, Section attached with CAD in the office of TDM, Rourkela, Dist-Sundargarh

•••

Applicants

By the Advocates

M/s.D.D.Jena
S.C.Parida

-Vrs.-

1. Union of India represented through the Chief General Manager, Telecommunication, Orissa, Bhubaneswar, Dist-Khurda
2. Telecom District Manager (T.D.M.), Rourkela, Dist-Sundargarh

•••

Respondents

By the Advocates

Mr.S.B.Jena, A.S.C.

T.S.

19
O R D E R

MR .M.R .MOHANTY, MEMBER (JUDICIAL): Heard Shri D.D.Jena, the learned counsel for the applicants and Shri S.B.Jena, learned A.S.C. for the Respondents.

2. Applicants were engaged casually in Rourkela Telecom District for a long time and disengaged. They have filed this Original Application; wherein they have raised a point that although they continued to serve the Department as casual labours for a long time, their cases received no consideration for being taken as "enlisted casual labours" nor were they taken to "temporary status"; because, casual labourers, conferred with temporary status, are to get regularisation in Group D posts.

3. In reply from the side of the respondents, it has been disclosed that such of the casual labourers, who were working for long periods under the Department (i.e. for 240 days in a Calendar Year) prior to 30.3.1985, were given temporary status in a phased manner and some of them, on test, were taken to regular Establishment; u/s a Scheme of the Government of India, issued on 7.11.1989. It is the further case of the Respondents that since the applicants, undisputedly, were engaged casually long after 30.3.1985, they are virtually to get no benefit; even to be treated as persons with temporary status. Therefore, it is the case of the respondents that the prayer of the applicants as made in this O.A., being devoid of merit, is liable to be rejected.

3. I have given my anxious consideration to the arguments advanced at the Bar. The only objection raised for regularisation/granting temporary status to the applicants is that they were engaged as casual labours long after 30.3.1985, i.e.,




the cut off date fixed under the Scheme of 7.11.1989.

Shri S.B.Jena, the learned Addl. Standing Counsel explains that a bulk of persons engaged on casual basis (prior to 30.3.1985) were to be enlisted and on computation of their length of engagements they were to be given temporary status; whereafter, on further test, they are to be taken to the regular Establishment. It is his further submission that as those persons engaged prior to 30.3.1985 were a class by themselves, the persons engaged after that cut off date, i.e. 30.3.1985, should not be allowed to enjoy the benefits extended to the former.

The issues as involved in the instant case were examined by the different Benches of the Tribunal including this Bench and, ultimately, examined by a Full Bench of C.A.T. at Hyderabad in the case of Saku Bai and N.J.Rameshan vs. Secretary, Ministry of Communications etc. and others in O.A. Nos. 912/92 and 961/92, decided on 7.6.1993.

4. Exploitation of casual labours were sought to be removed and as a measure thereof a Scheme was formulated by the Government on 7.11.1989 wherein a cut off date i.e., 30.3.1985 was fixed. No materials have been placed in this case to show as to why/how a cut off date was fixed; especially when casual workers were continued to be engaged even after 30.3.1985/7.11.1989. There appears to be no reasonable nexus for fixing the cut off date and i.e., 30.3.1985 may be there are reasons; as has been explained in some of the documents, that engagements of casual labourers were sought to be stopped w.e.f. 30.3.1985. Yet, engagements of casual labourers, like the present




applicants continued to be there in force/in reality.

Therefore, there is no reason not to apply the same principle to the casual labours engaged after 30.3.1985, as was being extended to casual labours engaged prior to 30.3.1985.

4. In the aforesaid premises, in order to remove the discrimination, respondents are directed to examine the case of each of the applicants and extend them the benefits those were made available to the casual labours engaged prior to 30.3.1985 and suitably confer on them temporary status; whereafter they may be considered to come over to regular Establishment of the Department. While giving these directions, anxious considerations are being given; because, it is not known as to whether while disengaging the applicants for good, provisions of protection under Industrial Disputes Act were adhered to or not has not been clearly spelt out in this case.

5. In the result, the O.A. is allowed as above, but without any order as to costs.

T Manoranjan Mohanty
(MANORANJAM MOHANTY) 08/03/2002
MEMBER (JUDICIAL)