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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 454 OF 1998
Cuttack, this the 28th April, 1999

Loki alias Loknath Rout 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.*

(G.NARASIMHAM)
MEMBER(JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

28.4.99

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

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CORAM:

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

.....

Loki alias Loknath Rout,
Vill-Anda, PO-Anda, Via-Bajpur, Dist. Khurda.... Applicant

Advocates for applicant - M/s U.N. Misra
A. Mohanty
S. Jenamani

Vrs.

1. Union of India, represented through the General Manager, South Eastern Railway, Garden Reach, Calcutta-46, West Bengal.
2. Divisional Railway manager, S.E. Railway, Khurda Road Division, At/PO-Jatni, Dist. Khurda.
3. Senior Personal Officer (Welfare), S.E. Railway, At/PO-Jatni, District-Khurda.
4. Divisional Personnel Officer, S.E. Railway, Khurda Road Division, At/PO-Jatni, District-Khurda.... Respondents

Advocates for respondents - M/s S. Roy
A. Ali Khan

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this Application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner has asked for the following relief:

"8. RELIEF(S) SOUGHT:-

The applicant has previous experience of service and the Hon'ble Court having given observations the said observations are required to be carried out for which appropriate direction by way of fixing date is prayed for."

2. The case of the applicant is that he worked as Khalasi under the Railways for the period from 1965 to 1968. This is borne out by Annexure-1. As he was not provided with any work thereafter he filed OA No. 383/87 for regularisation and re-employment. The order in OA No. 383/87 is at Annexure-2. From the date of the decision of

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the Tribunal in OA No. 383/87 the applicant has been regularly representing for engagement and even though respondents have engaged many new hands the case of the applicant has not been considered. The applicant has stated that as the Tribunal in their order in O.A.No. 383/87 have not fixed a time limit for implementing the order, an appropriate direction should be issued to the respondents for fixing a time limit to carry out the order passed in OA No.383/87.

3. In this case, in spite of several adjournments, the respondents did not file counter. On 14.12.1998 the matter was fixed for hearing on 6.1.1999 with a direction that the counter be filed in the meantime. After that two adjournments were given, but counter was not filed. On 17.2.1999 it was ordered that the matter is posted to 10.3.1999 for peremptory hearing even in the absence of counter. On 10.3.1999 the learned Additional Standing Counsel for the respondents wanted one week's time as a last chance for filing counter with copy to the other side. This was opposed by the learned counsel for the petitioner. But considering the submission made by the learned Additional Standing Counsel, the matter was posted to 23.3.1999 for peremptory hearing even in the absence of counter. It was also ordered that counter, if any, should be filed in the meantime with copy to the other side. On 23.3.1999 the learned Additional Standing Counsel wanted further four weeks' time to file counter. As on the previous occasion he had asked for one week's time for filing counter, his prayer for further four weeks' time for filing counter was rejected. We have accordingly heard Shri U.N.Mishra, the learned counsel for the petitioner and Shri S.Roy, the learned Additional Standing Counsel for the respondents, and have also perused the records. Record of OA No.383/87, disposed of on 24.4.1992, was also called for and perused.

S. Som.

4. From the record of OA No. 383/87 it is seen that the present applicant was petitioner no.5 in that OA. In OA No. 383/87 the petitioners had prayed for regularisation and for a direction to the respondents to

re-engage the petitioners with immediate effect. O.A.No.383/87 was disposed of in order dated 24.4.1992. The Tribunal rejected the prayer for regularisation. As regards re-engagement of the applicants, the observations of the Tribunal are quoted below:

"6. Admittedly, the applicants were employed as casual workers. In these hard days when persons are going from pillar to post to earn their livelihood, the Railway Administration should take a sympathetic view over the applicants and reappoint them as casual workers during the monsoon period and so also in the Construction Division and Bridge Lines, till the work is available and after they complete the requisite period of service they should be considered for regularisation.

7. In such circumstances, we find no merit in this application which stands dismissed subject to the observations made above....."

From the above, it is seen that the Tribunal directed the Railway Administration to consider the applicant for engagement in seasonal work during monsoon season if the work is available and after they complete the requisite period of service, to consider him for regularisation. As the respondents have not filed counter in this case, it is not known if against this order in OA No. 383 of 1987 any appeal was carried and if so, what the result was. In the absence of counter, we have to presume that the order in OA No. 383 of 1987 has become final. In view of this, the respondents are directed to give effect to the observations of the Tribunal without any further delay. As the Tribunal have directed the respondents to engage the applicant for seasonal work and as and when work is available, it is not possible to give a direction to comply with the above order within a specific time period. In view of this, while we direct the respondents to give effect to the above observations of the Tribunal, we decline to fix any time limit within which the above order in OA No.383/87 has to be complied with.

5. The Original Application is disposed of in terms of the direction and observation in the preceding paragraph but without any order as to costs.

(G.NARASIMHAM)

MEMBER(JUDICIAL)

Somnath Som
(SOMNATH SOM)

28.4.99
VICE-CHAIRMAN

AN/PS