

15
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 461 OF 1998
Cuttack this the 12th day of May 2004

Santanu Kumar Behera ... Applicant(s)

-VERSUS-

Union of India & Ors. ... Respondent(s)

FOR INSTRUCTIONS

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

(M.R. MOHANTY) 12/05/04
MEMBER (JUDICIAL)

(B.N. SOM)
VICE-CHAIRMAN

18

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.461 OF 1998
Cuttack this the 12th day of May 2004

CORAM:

THE HON'BLE SHRI B.N. SOM, VICE-CHAIRMAN
AND
THE HON'BLE SHRI M.R. MOHANTY, MEMBER (JUDICIAL)
...

Santanu Kumar Behera & ... Applicants
B. Brahma Achary

By the Advocates M/s. U. Mishra
D. P. Dhalasamant

-VERSUS-

Union of India represented by Secretary,
Ministry of Agriculture & Animal Husbandry
& Diary Deptt., New Delhi & one another

... Respondents

By the Advocates Mr. U. B. Mohapatra, ASC

- - - - -
O R D E R

MR. B. N. SOM, VICE-CHAIRMAN: This Original Application has been filed jointly by the two applicants, viz., S/Shri Santanu Kumar Behera and B. Brahma Achary, seeking the following reliefs:

- " i) Grant of remuneration wages and other permissible benefits for the period under Live Stock Inspector Training with effect from 3.10.1989 to 26.9.1990 and also upto rejoining date 8.10.1990 and the period to be counted as on duty.
 - ii) Release of arrear dues with effect from the date of rejoining on 8.10.1990 in C.C.B.F., Sunabeda-2, District, Koraput after successful completion of Live Stock Inspector Training at Bhanjanagar, Dist-Ganjam till presentation of the instant O.A. in terms of the doctrine of "equal pay for equal work" contained in shape of Guide-lines & policy vide Annexure-A/20 & A/21.
 - iii) absorption of the applicants as regular employees in the vacant posts of Live Stock Inspectors/Stockmen and or compounders with effect from the date of rejoining on 8.10.1990 in the light of Annexure-A/27".
- 22

2. The factual matrix of this application is that the applicants are working as casual workers in Central Cattle Breeding Farm (in short C.C.B.F.) Sunabeda since 1981. It is their case that their services are being utilized by the Respondents for the purpose of developing expertise of the workers in providing para-medical support for the live stock population in that farm. In the process they were sent on training to Deep Freezing Semen Lab under Indo-Swiss Project, Vishakpatham for a period of one month in 1991 and thereafter they were nominated to undergo a training course designed for live-stock inspectors at Live Stock Inspectors Training Institute, Bhanjanagar and Vishakhapatnam. Thereafter they had once applied for selection to the vacant post of Veterinary compounder against advertisement No.46/93 and 29/93 notified by Respondent No.2 and again to absorb them against the posts of Stockmen and veterinary compounder in the year 1995, but without any effect, although these posts have not been filled up so far. They have also alleged that they have not been paid wages and other admissible benefits for the period from 3.10.1989 to 29.9.1990 when they were under training at Bhanjanagar and Visakhapatnam. By referring to a Memorandum^{of}/settlement in Form-N under I.D.(Central Rules) 1975 dated 3.2.1984 they have claimed that although it was decided to regularise their appointment, but the same has never been acted upon by the Respondents.

The Respondents have opposed the application by filing a detailed counter. Admitting the facts that the applicants are casual workers working since 1981, they have already been granted temporary status and they will

be regularised against Group-D posts as per the scheme prepared for regularisation of the temporary status holder casual workers. It is their further submission that as the turn for regularisation of the applicant has not yet come, it is premature for them to approach the Tribunal. With regard to their allegation regarding non-implementation of the M.O.S. (Memorandum of Settlement) signed before the Asst. Labour Commissioner, the Respondents have submitted that if the matter is still available for judicial intervention, the applicants ought to have approached the Industrial Tribunal for adjudication without approaching this Tribunal.

With regard to their allegation that although they were nominated for training to Bhanjanagar Institute and to Vishakpatham they were not paid the wages nor the other benefits like, T.A./D.A., it is the case of the Respondents that the applicants were never sponsored by them for any training course. The fact of the matter is that the applicants had approached Res.No.2 to secure on their behalf two seats in the Live Stock Inspectors Training Programme and while making such request they gave an undertaking that should they be selected for such training they would bear the cost of training, they would not claim any hostel accommodation nor would they claim any stipend from the Animal Husbandry Department of Orissa or the Institute. By referring to their letter dated 26.10.1988 (Annexure-A/6) addressed to the Director of Animal Husbandry, Dairy & Veterinary Services, Cuttack containing the above terms and conditions for permission

to these two applicants to the course training, they have submitted that the said letter was based on the undertakings given by the applicants and copy of the said letter was also endorsed to the applicants. In other words, they have stated that the Respondent No.2 simply acted as a facilitator and no responsibility or commitment was given to them that they would be paid wages for the period they remained away from the work and/or to take care of their TA/DA facilities. With regard to their claim for appointment against the vacant posts of veterinary compounder, the Respondents have submitted that no post of veterinary compounder did exist for being filled up and therefore, the allegation made by the applicants is unfounded. With regard to the filling up of vacancies of Stockman during 1993-94, the Respondents have submitted that the vacancy having been caused due to adhoc promotion of stockman to next higher grade, it was decided finally not to fill up the said post, the vacancy being of short term nature. In any case, at present no post of Stockman is lying vacant, the Respondents have added.

We have heard the learned counsel of both the sides and perused the materials placed on record. The sole question to be answered in this case is whether the applicants are entitled to wages for the period they spent on training. The case of the applicants is that since they were sponsored for the training, called 'Livestock Inspectors Training', the Respondents should treat the period spent on training as duty and consequently, they should be paid wages for those period, besides TA/DA etc.

After going through the records placed before us, we find that it is the applicants, who had approached Res. No.2 for securing seats at Bhanjanagar Institute for Livestock Inspector Training. It is they who had submitted undertakings on 21.5.1986 in writing to undergo training at their own expenses and that is how their cases were referred to the State Government(Annexure-A/4) and that the contents of this letter have not been repudiated by the applicants in their rejoinder. The averments made in the rejoinder that "any undertaking obtained from the applicants cannot deprive them of the legal claim" is of no avail, because, firstly, the undertaking was not taken under duress, nor has there been any allegation to that effect made by the applicant. Secondly, they being the daily wage workers, they are governed by the concept of 'No Work No Pay' and the training at Bhanjanagar Institute not being the normal affairs of the firm nor the applicants' training being at the instance of the Respondents, the applicants cannot claim any wages for the period they spent on training and thus, it goes without application of saying that the principle of 'No Work No Pay' in case of the applicants is wholesome. To add to this, we would like to say that it is not the case of the applicants that similarly circumstanced persons as that of the applicants, who had undergone training were allowed wages, TA/DA and thereby they have been discriminated. We however, see from the record that Res.No.2 vide its letter under Annexure-A/19 had taken up the prayer of the applicants for grant of wages and other benefits with Res.No.1, the relevant portion of which is extracted

hereunder:

"...There are no Rules governing deputation of Casual Workers on training. But at the same time it cannot be denied that the sponsoring of these two workers by the Farm was not in the larger interest of the Government and accordingly it is felt that the period for which they were on training as aforesaid may be treated as duty and they may be paid wages. The total amount involved in each case would work out to Rs.12,550/- bringing the total amount to Rs.25,100/- (Rupees Twenty five thousand one hundred)".

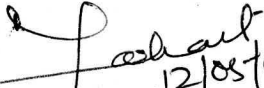
Apparently no favourable response emanated from Res.No.1. There is no doubt that as per the extant rules governing engagement of casual workers, the applicants are not entitled to any of the reliefs sought by them. The fact, however, remains that the cases of these two casual workers deserve special notice for the reason that they have shown keen interest in their work and tried to improve/upgrade their skill to become para-medical staff to serve this farm located in a remote district of the State and this by itself is a shining example of dedication to duty and loyalty to the Institute. True, their training cost normally cannot be funded by the Institute. But having regard to the zeal, enthusiasm and interest of the applicants for upgradation of their skills to be able to ^{serve} ~~serve~~ the farm better, it is a matter of worth considering by the Respondents for giving them financial grant by way of recognising their merit and devotion to duty. Accordingly we direct the Respondents to consider the matter in the larger context of encouraging all workers irrespective of their hierarchical status to continuously upgrade their skill/faculties to be able to serve better, to improve the


22

- 7 -

standard of the farm and to grant them one time financial award in token of recognition of their merit and devotion to duty and such an award should be good enough to cover the cost of training and T.A./D.A.

With the observations as aforesaid, we dispose of this Original Application. No costs.


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(B.N. SOM)
VICE-CHAIRMAN

BJY