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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.572 OF 1998
Cuttack this the 6th day of July, 2000

Sri Jaya alias Jayakrishna Barik ... 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 Administrative Tribunal or not ?

SOMNATH SOR
SOMNATH SOR
VICE-CHAIRMAN
6.7.2000

G. NARASIMHAM
(G. NARASIMHAM)
MEMBER (JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 572 OF 1998
Cuttack this the 6th day of July, 2000

CORAM:

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

Sri Jaya lias Jayakrishna Barik
aged about 50 years,
S/o. Late Natha Barik
At- Mahatpara, PO: Anda,
PS: Khurda, Dist: Khurda

Applicant

By the Advocates

M/s. U.N. Mishra
S. Jenamani
B.K. Rana

-VERSUS-

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

Respondents

By the Advocates

Mr. S.R. Pattnaik
Addl. Standing Counsel
(Railways)

2
ORDER

MR .G .NARASIMHAM, MEMBER (JUDICIAL): This application is a sequel to the final order dated 24.4.1992 passed by this Bench in Original Application No.383/87 (Annexure-2) . That Original Application was filed by the applicant and four others with a prayer for directing respondents (Railways) to treat them as rendering casual service of continuous nature and for regularisation of their services and for reengagement. While dismissing their prayer being devoid of merit the then Division Bench made the following observations.

- *5. After going through the contents of Annexure-1 series we have no doubt in our mind to hold that the applicants had been employed as casual workers. But there was no doubt expressed before us that they were not employed as casual workers during the Monsoon period in the place of permanent gangman. The words 'casual workers for monsoon periods sufficiently indicates that they were employed for a particular period and not thereafter. Therefore, regularisation of the casual workers does not arise.
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".

On the basis of the aforesaid observation the applicant has filed this Original Application on 30th October, 1998 seeking direction on the respondents to carryout the observations of the Tribunal in O.A.383/87 on the ground that he is still out of engagement and the respondents have not provided any work to him.

2. In the counter the stand of the Department is that as per the observations of this Tribunal the case of the applicant was sympathetically considered for engagement as casual labourer

10
during monsoon period and also in the Construction Division in the bridge work. The railway authorities have duly considered these observations and ^{have} also every sympathy over the applicant but due to non-availability of casuality for short time engagement of casual labourers his case could not be considered as permanent gangmen are utilised for both track maintenance and monsoon patrolling. Besides the present age of the applicant is above 50 years. In fact there is a cut off date, i.e. 31.3.1987 prior to which date retrenched casual labourers were to submit their applications with working particulars to form a live register. Accordingly those who submitted their applications their cases had been considered and prepared the live register but the applicant had not preferred any such application on material date. Hence his name does not appear in the live register. Hence at this stage it cannot be reopened. On these grounds respondents (Railways) pray for dismissal of the Original Application.

3. We have heard Shri U.N.Mishra, learned counsel for the applicant and Shri S.R.Pattnaik, learned Addl. Standing Counsel for the respondents (Railways). Also perused the records. During hearing Shri Mishra placed reliance on the judgment of this Bench in O.A.454/98 passed on 28.4.1999. This Original Application was filed by one of the applicants in O.A.383/87 making an identical prayer and respondents were directed in that case to give effect to the observations of this Tribunal in O.A.383/87 without fixing any time-limit. Hence we had also perused the records of O.A. 454/98. In this case the Department did not file any counter. Therefore there was no occasion for this Bench to know about the cut off date of 31.3.1987. Moreover the aforesaid observations

of the then Bench of this Tribunal in O.A.383/87, in our view, are not directions as such issued to the respondents. ^{but a} Rather the fond hope of the Bench that the Department should take sympathetic view over the plight of those applicants. Even assuming that those were directions of this Bench, there was no justification for the applicant to sit ^{idle} tide all these days and approach the Tribunal after a gap of six and half years and that too when he is aged more than 50 years, by which under normal circumstances efficiency in doing physical labour will be considerably reduced.

In the result, we do not see any merit in this Application which is accordingly dismissed leaving the parties to bear their own costs.

Somnath S.C.
(SOMNATH S.C.)
VICE-CHAIRMAN

G.Narasimham
(G.NARASIMHAM)
MEMBER (JUDICIAL)

B.K.SAHOO//