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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 587 OF 1998
Cuttack this 27th day of January, 2000

Balunkeswar Sahu

Applicant(s)

-Versus-

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? 40 -
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
27.1.2000

27-1-2000
(GGNARRATHAMHAMM)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 587 OF 1998
Cuttack this the 27th day of January, 2000

CORAM:

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

Sri Balunkeswar Sahu
aged about 31 years
S/o. Sri Kunjabana Sahu
At/Po: Begunia,
Dist: Khurda

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Applicant

By the Advocates : M/s.P.V.Ramdas
P.V.B.Rao

-Versus-

1. Union of India represented by the
Chief Post Master General
Orissa Circle,
Bhubaneswar-751001
2. Senior Superintendent of Post Offices
Puri Division,
Puri - 752 001
3. Asst.Superintendent of Post Offices I/c.
Khurda Sub-division
Khurda-752055
4. Postmaster
Khurda H.O.,
At/Po/Dist: Khurda, PIN: 752055
5. Sub Post Master
At/Po: Begunia
Dist: Khurda
PIN : 752 062

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Respondents

By the Advocates : Mr.K.B.KNayak
Addl.Standing Counsel
(Central)

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ORDER

MR.G.NARASIMHAM, MEMBER(JUDICIAL): Applicant Balunkeswar Sahoo, who was engaged as Waterman-cum-Sweeper at Begunia S.O. under Annexure-1 dated 30.8.1991 and who joined on 2.9.1991(Annexure-2), in this application seeks direction on the Respondent Nos. 2 and 3 to restore his services in Begunia S.O. and for regularisation his services on the ground that his removal with effect from 30.12.1997 pursuant to letter dated 30.12.1997(Annexure-3) is not sustainable because that letter contains direction for removal of service in respect of congigent staffs engaged on or after 1.1.1995.

2. The Department in their counter aver that the applicant discharged duties from 2.9.1991 to 1.5.1995 and from 2.5.1995 he did not turn up. Hence his service was treated as terminated and one Dasarathi Barad was engaged in his place from 2.5.1995. This Dasarathi Barad left the job and the present applicant was engaged afresh on 1.5.1997. Hence the applicant comes within the ambit of the directions issued under letter at Annexure-A/3. Moreover, engagement of casual labourers has been banned by the Government in D.G.(Posts) Circulars dated 11.5.1989, 5.5.1991 and 4.2.1997(R-1, F-2 and R-3) and no new casual labourer can work for the work of regular nature in any office. Infact engagement of Dasarathi Barad on 2.5.1995 and of the applicant afresh on 1.5.1997 was made by Sub Post Master, Begunia who is not the competent authority. Hence the applicant was disengaged.

No rejoinder has been filed.

3. We have heard Shri P.V.Ramdas, learned counsel for the applicant and Shri B.K.Nayak, learned Addl.Standing

Counsel appearing for the respondents. Also perused the records.

4. Shri Ramdas, the learned counsel for the applicant laid great stress on the fact that since there is no order of cancellation of the engagement made under Annexure-1 dated 30.8.1991, the applicant is deemed to be without interruption from 2.9.1991 onwards and he could not have been removed pursuant to the direction in letter dated 20.12.1997 (Annexure-3) which is concerned with the casual labourers engaged on or after 1.1.1995. Though technically no order was passed disengaging him and again engaging him afresh on 1.5.1995, applicant's representation dated 23.2.1998 under Annexure-5 read with the above referred averments in the counter do establish that he was once disengaged and again engaged. In his representation he admits that during 1995, he became ill and requested a relation to attend his duties, but the Sub Post Master, Begunia, without intimating him engaged that relation in his place and after some time on his recovering from illness he began discharging his duties. These facts in the representation corroborate the version in the counter as to his disengagement on 2.5.1995 and fresh engagement on 1.5.1997. We are therefore, not inclined to accept the contention of Shri Ramdas in this regard.

It is however, noticed that in letter dated 7.2.1998 (Annexure-4) addressed to Senior Superintendent of Post Offices, the Post Master, Begunia intimated that the applicant was by that ^{date} still continuing and allowance for the month of January, 1998 had not been paid. We make it clear that respondents are bound to pay him the

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allowances till he worked and if not already paid, the respondents are directed to pay the same within 30(Thirty) days from the date of receipt of this order.

5. It is next submitted by Shri Ramdas that this application be treated as a mercy petition of the applicant and that in view of his long service, the Department may be directed to reconsider his case. Apart from his engagement for more than four years though in two spells, there appears to be necessity for engagement of Waterman-cum-Sweeper in Begunia Sub Post Office as indicated by the Sub Post Master, Begunia in his letter dated 7.2.1998 under Annexure-4. Hence in case the applicant represents to the respondents within one month from to-day, respondents are directed to consider and dispose of the same through a speaking order under intimation to the applicant within 60(Sixty) days from the date of receipt of his representation clearly bearing in mind that this order of the Tribunal will not stand as a bar for reconsideration, should the Department feel like reconsideration. *He must.*

6. In the result the application is disposed of with the observation and direction made above, but no order as to costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
27.1.2001

B.K.SAHOO

27.1.2001
(G.NARASIMHAM)
MEMBER(JUDICIAL)