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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACKBENCH, CUTTACK.

ORIGINAL APPLICATION NO. 60 OF 1998
Cuttack, this the 22nd day of May, 2000


Sri Nakula Charan Nath Applicant

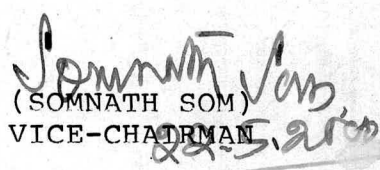
Vrs.

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.


(J.S. DHALI WAL)
MEMBER (JUDICIAL)


(SOMNATH SOM)
VICE-CHAIRMAN

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CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI J.S.DHALIWAL, MEMBER(JUDICIAL)
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Sri Nakular Charan Nath, aged about 34 years, son of Krushna Chandra Nath, Village-Haripur, P.O-Sayedpur, Via-Areai, Dist.Jajpur, at present working as Casual Worker (Partial Temporary Status), Jajpur Group of monuments, Archaeological Survey of India
.....Applicant

Advocates for applicant - M/s Ganeswar Rath
S.Mishra
A.K.Panda
T.K.Praharaj

Vrs.

1. Union of India, represented by its Secretary, Department of Culture, Ministry of Human Resources and Development, Shastri Bhawan, New Delhi.
2. Director General, Archaeological Survey of India, Janpath, New Delhi.
3. Superintending Archaeologist, Bhubaneswar Circle, Archaeological Survey of India, Old Town, Bhubaneswar, Dist.Khurda.
4. Conservation Assistant, Cuttack Sub-Circle Archaeological Survey of India, Barabati Killa, Cuttack.
5. Prafulla Kumar Sethi, son of Baidhar Sethi, Monument Attendant, Jajpur Group of Monument, C/o Sub-Collector Residence Office, At/PO/Dist. Jajpur.
6. Antaryami Padhi, aged about not known, son of not known, working as Monument Attendant, Archaeological Survey of India, At-Kansil, P.O-Mundapadar, Dist.Bolangir-767 040.
7. Braja Kishore Mallia, aged about not known, son of not known
8. Srimanta Kumar Bisoi, aged not known, son of not known

Sl.nos.6 to 8 are working as Monument Attendant, posted in the office of the Superintending Archaeologist, Archaeological Survey of India, Bhubaneswar Circle, At-Temple Road, Old Town, Bhubaneswar-2, Dist.Khurda

.....
Respondents

Advocate for respondents-Mr.B.Dash, ACGSC

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O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this application the petitioner has prayed for quashing the order dated 23.1.1998 at Annexure-5 in which the applicant along with some other casual labourers, has been disengaged from 23.1.1998 due to shortage of funds. The second prayer is for a direction to respondent no.3 to confer temporary status to him with effect from 1.9.1993 and to grant him all benefits under the temporary status scheme. The third prayer is for a direction to regularise him with effect from the date his junior S.K.Bisoi (respondent no.8) has been regularised in a Group-D post.

2. Before going into the facts of the case it is to be noted that on the date of hearing on 17.5.2000 the learned Additional Standing Counsel, Shri B.Dash filed a memo with copy to the other side, enclosing an order dated 15.5.2000 in which the applicant's case has been re-examined and he has been granted temporary status with effect from 1.9.1993 in the scale of Rs.750-940/- with usual allowances from time to time. His wages in the revised scale of Rs.2550-3200/- have also been fixed with effect from 1.1.1996. Thus the first two prayers of the applicant have already been granted to him by the departmental respondents. The only question which remains for consideration is his prayer to regularise him from the date his junior S.K.Bisoi (respondent no.8) has been regularised in a Group-D post.

3. The applicant's case is that he has been working as casual labourer in Archaeological Survey of India since 8.3.1986. His name was registered in Puri Employment

Exchange. He was initially appointed directly but later on his name was sponsored through Employment Exchange and he was appointed in order dated 9.2.1987 as casual labourer (annexure-2). The applicant has stated that while he was representing for grant of temporary status to him from 1.9.1993, the departmental authorities in order dated 28.8.1997 gave regular appointment to one S.K.Bisoi (respondent no.8) whose year of initial engagement, according to the petitioner, is 1990 and who started getting one-thirtieth of the minimum of the scale of pay on daily wage from July 1994.

3. In this case the respondents have not filed counter in spite of several adjournments. On 23.2.2000 it was submitted by the learned Additional Standing Counsel that counter has been sent for vetting and on his request four weeks time was allowed for filing counter and the matter was posted to 24.3.2000. On 24.3.2000 further time for filing counter was asked for and the same was rejected and the matter was posted to 9.5.2000 for hearing and final disposal. On 9.5.2000 the respondents wanted another seven days time and with the applicant's counsel agreeing seven days further time was allowed for filing counter and the matter was posted to 17.5.2000. We have heard Shri S.Mishra, the learned counsel for the petitioner and Shri B.Dash, the learned Additional Standing Counsel for the respondents and have also perused the records.

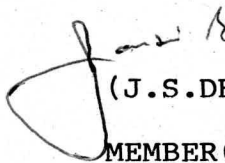
4. In accordance with the scheme which was circulated in Department of Personnel & Training's Office Memorandum dated 10.9.1993 (Annexure-4) and came into

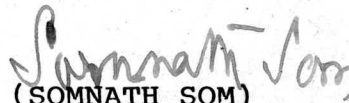
force with effect from 1.9.1993, the applicant has been granted temporary status from 1.9.1993. In paragraph 8 of the scheme deals with procedure for filling up of Group-D posts and it is provided that two out of every three vacancies in Group-D cadre in respective offices where casual labourers have been working, would be filled up in accordance with the recruitment rules and the instructions issued by the Department of Personnel and Training, from amongst casual workers with temporary status. It is also provided that where regular Group-D staff have been rendered surplus, they will have to be absorbed first before regularising casual workers with temporary status against two out of three vacancies. The applicant has stated that the year of initial engagement of S.K.Bisoi (respondent no.8) is 1990 whereas the respondents in their order dated 15.5.2000 have mentioned that the applicant has been continuously in engagement from 1987 with more than 240 days of work in each year. In the absence of any counter by the departmental respondents as also by S.K.Bisoi who is private respondent no.8, it is not possible to take a view as to whether the applicant is in fact senior to S.K.Bisoi. It is also not known whether S.K.Bisoi has been granted temporary status with effect from 1.9.1993 like the applicant or on some date later than that. For the purpose of considering seniority amongst the temporary status casual workers it is necessary not only to go by the date of initial engagement but also the total number of days of work put in by such casual workers. These materials are not before us at least so far as S.K.Bisoi is concerned. In view of this, the prayer of the applicant for regularisation is disposed of

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with a direction to the departmental respondents that they should determine the seniority of the applicant vis-a-vis S.K.bisoi (respondent no.8) within a period of 120 days from the date of receipt of copy of this order and in case he is found senior to S.K. Bisoi (respondent no.8) as has been asserted by the applicant, then in the next lot of vacancies meant for regularisation of temporary status casual workers, the case of the applicant should be taken up for regularisation in accordance with the recruitment rules and instructions issued by the Department of Personnel & Training.

5. With the above observation and direction, the Original Application is allowed. No costs.


(J.S.DHALIWAL)
MEMBER (JUDICIAL)


(SOMNATH SOM)
VICE-CHAIRMAN 22.5.2000

aN/PS