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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

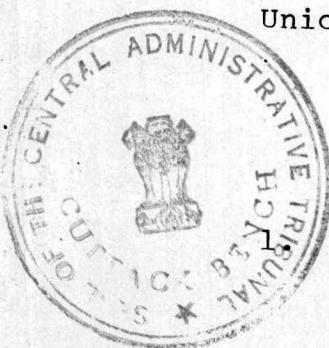
ORIGINAL APPLICATION NO.133 OF 1999
Cuttack, this the 8th day of August, 2001

Pradeep Kumar BisoiApplicant

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)

Sonmathi S. S.
(SONMATHI S. S.)
VICE-CHAIRMAN
8.8.2001.

11

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 133 OF 1999
Cuttack, this the 8th day of August, 2001

CORAM:

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

Pradeep Kumar Bisoi, aged about 22 years, son of Gopal Chandra Bisoi, now working as Salesman, Railway Co-operative Store, Cuttack

.... Applicant

Advocates for applicant - M/s Biswajit
Nayak
S.Lal



1. Union of India, represented by the General Manager, S.E.Railway, Garden Reach, Calcutta-43.
2. Divisional Railway Manager, South Eastern Railway, At/PO-Jatni, District-Khurda.
3. Senior Divisional Personnel Officer, S.E.Railway, Khurda Road, At/PO-Jatni, Dist.Khurda.
4. Secretary, South Eastern Railway Employees Co-operative Store, Cuttack

.... Respondents

Advocates for respondents - M/s C.Kasturi
N.Lenka
S.K.Sethi
M/s P.K.Chand
D.Satpathy
A.Mohanty
S.Misra

ORDER

SOMNATH SOM, VICE-CHAIRMAN

In this O.A. the petitioner has prayed for a direction to the respondents to regularise the applicant in the post from the date of his joining with all salary benefits.

2. The case of the applicant is that he joined service under Secretary, S.E.Railway Employees Co-operative Store, Cuttack, on daily wage basis in 1991

and has been working on remuneration of Rs.50/- till date. A copy of the experience certificate of his work in S.E.Railway Employees Co-operative Store as a Salesman from 1.5.1991 to 1995 and till date issued by G.K.Dhali, Secretary of the Co-operative Store is at Annexure-2. The applicant has stated that the Hon'ble High Court of Orissa in the case of Bichitrananda Mohapatra and others v. State of Orissa (Annexure-3) had deprecated the practice of appointment on daily wage basis where permanent need for post exists. The applicant has stated that he has served for eight years in the meantime and therefore he is entitled to be regularised. It is further stated that in 1997 interview was conducted for regularisation of such daily wage employees but he was not regularised. Instead one Ajaya Kumar Sarangi, who was much junior to the applicant and who was son of respondent no.3 was regularised. He has also given names of two other persons who were regularised and has stated that they are junior to him. In the context of the above, the applicant has come up in this petition with the prayers referred to earlier.

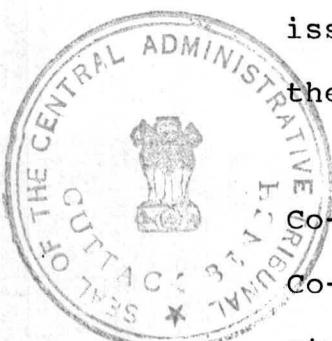
S. Jam.
3. Respondent nos. 2 and 3 have filed counter opposing the prayer of the applicant. Secretary, S.E.Railway Employees Co-operative Store, Cuttack, has filed a separate counter opposing the prayer of the applicant.

4. No rejoinder has been filed.

5. We have heard the learned counsel for the parties and perused the pleadings.

6. From the averments made by the applicant himself it is clear that the applicant by his own statement was engaged as Salesman in S.E.Railway Employees Co-operative Store. Thus, he was not engaged in any capacity under the Railways on daily wage basis. Co-operative Society has a separate legal entity and is managed by its Board of Directors and in accordance with the Co-operative Societies Act and the Bye-laws of the Society. The applicant was not engaged in any capacity under the Railways and therefore, no direction can be issued to the Railway authorities to regularise him in the post of Salesman in the Co-operative Store.

7. So far as his engagement in the Co-operative Store is concerned, the Secretary of the Co-operative Store (respondent no.4) in his counter has stated that the applicant worked as temporary Salesman from 1.7.1995 and was discharged on 30.11.1995. Thus, he has worked in the Co-operative Store for five months. Departmental respondents have pointed out that the applicant could not have been engaged in the Co-operative Store from 1.5.1991 because from the date of birth mentioned in the School Transfer Certificate filed by the applicant at Annexure-1 his date of birth is 30.6.1977 and therefore on 1.7.1995, the admitted date of his engagement as Temporary Salesman he was 18 years, 1 month and 29 days of age. In May 1991 he was obviously under age. Moreover, from the transfer certificate enclosed by the applicant himself it appears that from 1.7.1991 to 31.7.1994 he was studying in Railway Settlement High School, Cuttack. Respondent no.4 has pointed out that Shri G.K.Dhali, who has purportedly given the experience certificate at Annexure-2 was not the Secretary of the

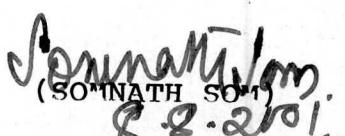


Store on 1.5.1995 when the certificate has been issued. Departmental respondents have pointed out that on 6.1.1994 a circular was issued for considering the staff of quasi-administrative offices/organisations connected with the Railways for regular service in the Railways. The eligibility for such consideration was completion of five years of service and above as on 10.1.1994. By that time the applicant was not even engaged in the Co-operative Store as he was studying in Railway Settlement High School. All these averments have not been denied by the applicant by filing a rejoinder. The applicant's prayer in the OA is to regularise him in the post held by him from the date of his joining. He worked only for five months as temporary Salesman in a Co-operative Store. The Tribunal cannot issue any order to a Co-operative Society to regularise him. His case also could not have been considered for absorption in Railways because by the relevant date he was not even working in a quasi-administrative office/organisation.

8. In view of all the above, we hold that the O.A. is without any merit and the same is rejected. The stay order granted earlier stands vacated. There will be no order as to costs.


(G.NARASIMHAM)

MEMBER (JUDICIAL)


(SOMNATH SOM)
8.2.2001
VICE-CHAIRMAN

CAT/Cutt.Bench/ 8th August, 2001/AN/PS