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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 19 OF 1999.

Cuttack, this the 18th day of January, 2001.

Ganga Alias Ganga Routra. Applicant.
Versus
Union of India & 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)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
18.1.2001

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH;CUTTACK.

ORIGINAL APPLICATION NO.19 OF 1999.
Cuttack, this the 18th day of January, 2001.

CORAM:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDICIAL).

Ganga Alias Ganga Routra, Aged about 42 years,
Son of Late Narayan Routra, resident of
Village; Sadhaigarh, Po; Brajmohanpur,
Via. Narangarh, Dist. Khurda.

.... Applicant.

By legal practitioner: M/s. U. N. Mishra, B. K. Rana,
S. Jenamoni, A. K. Mohanty,
Advocates.

- Versus -

1. Union of India represented through the
General Manager, South Eastern Railway,
Garden Reach, Calcutta-43, West Bengal.
2. Divisional Railway Manager,
South Eastern Railway, Khurda Road
Division, At/Po; Jatni, Dist. Khurda.
3. Senior Personal Officer (welfare),
South Eastern Railway, Khurda Road Division,
Jatni, Khurda.
4. Divisional Personal Officer,
Southeastern Railway, Khurda Road
Division, Jatni, Khurda.

.... Respondents.

By legal practitioner ; Miss. S. L. Patnaik, ASC.

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN;

In this Original Application the applicant has prayed for being provided with the job he was earlier holding on the ground that he had earlier experience. His case is that he was working as a casual labourer from 1988 to 1993 and in the year 1996, after his disengagement he was provided with an engagement. Applicant has stated that he has difficulty in speaking and therefore, his case is not being considered. He has stated that from Annexure-8, dated 26.5.96, it appears that the Departmental Authorities are engaging fresh faces while ignoring the cases of old hands with previous experience like the applicant notwithstanding his filing of representations which are enclosed to his Original Application. Certificate dated 2.8.1993 given by the PWI, Kalupadaghat about the applicant's engagement as casual labourer is at Annexure-1. In the context of the above facts, the applicant has come up in this original Application with the prayers referred to above.

2. Respondents in their counter have stated that the section engineer, PWI, Kalupada-ghat replied to Sr. Asst. Engineer, SE Railway, Khurda Road that no such named person bearing the name of applicant has worked in his section so far and no documents are available in his name. Respondents have stated that applicant/^{by}his own admission had worked as casual labourer who is not a railway servant. They have stated that applicant has taken contradictory stand in his OA. As per the certificate dated 2.8.93 at Annexure-1 His case is that he has worked for 155 days in 1988 but in his representation

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at Annexure-3 he has mentioned that he worked as casual labourer from 1977 to 1993. Respondents have further stated that for disengaged casual labourers Railways maintained a life casual register. In 1987, in pursuance of the direction of the Hon'ble Supreme Court, all ex-casual labourers were directed to apply by 31.3.1987 for getting their name included in the life casual register. This order was given wide publicity and after verifying large number of applications as many as 744 persons were included in the life casual register in 1987. Applicant having failed to apply at that time, his case can not be considered for engagement even if it is admitted that he had worked for a period of 155 days in the year 1988.

3. Applicant in his rejoinder has contested the submission of the respondents that in the records at Kaluparaghat, there is no mention of his name. He has stated that in the certificate at Annexure-1 it is mentioned that as per seniority list he has worked for 155 days in 1988. This shows that his name is there in the seniority list. On the above grounds applicant has reiterated his prayer in his rejoinder.

4. Learned counsel have abstained from court work from 7-12-2000 and there is no indication when they will be returning to court work. Hon'ble Supreme Court in the case of RAMAN SERVICES PVT. LTD. VRS. SUBASH KAPUR AND OTHERS REPORTED in 2000 AIR SCW 4093 have deprecated the action of the courts in adjourning cases on account of abstention of court work by learned lawyers. They have even observed that by adjourning cases in such situation the

defaulting courts would be contributing to contempt of Honourable Supreme Court. In view of this it is not possible to adjourn the matter. Petitioner and Respondents are absent. We have, therefore, perused the records and noted the averments of the parties in their pleadings as above.

5. The sole prayer of the applicant in the case is that he had previous service under the railways as casual labourer and therefore, he should be taken back to service and given preference over fresh faces. According to the certificate enclosed by the applicant himself at annexure 1 he has worked for 155 days as casual labourer in 1988. Applicant has mentioned in his rejoinder that after 120 days of work he should have been conferred with temporary status but this has not been done. Respondents have stated that on checking up all the records at Kaluparaghat Railway station no record has been found showing that the applicant had worked as casual labourer there at any time. Besides the certificate at Annexure-1, the applicant has not annexed any document in support of his engagement at Kaluparaghat, for 155 days in 1988. We are unable to rely upon the typed copy of the certificate at Annexure-1 because it shows that the applicant has put his LTI in the certificate whereas from the O.A. we find that he has signed the O.A. From the copy of the representation enclosed to the petition we find that he is capable of signing his name.

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6. Be that as it may, a casual labourer just because he has worked for some period under the railways does not get a right to ask for reengagement at any time. This matter came up before the Hon'ble Supreme Court and the railways have submitted before the Apex Court that they will face difficulty if ex-casual labourers keep on turning up from time to time claiming engagement on the ground of their past service. Hon'ble Supreme Court had indicated that the railways should fix up a cut off date and give wide publicity requiring the ex-casual labourers for applying for getting their names enrolled for future engagements. That decision of the Hon'ble Supreme Court came in Dakshin Railways' case reported in AIR 1987 S C 1153. That decision is no doubt in respect of Project casual labourers but in the instant case, the Respondents have mentioned that they had given wide publicity requiring ex-casual labourers to apply for getting themselves enrolled for future engagements by 31.3.1987. Applicant did not apply in response to that notice and therefore, he can not claim that on the basis of his alleged past service of 155 days he has a right to get engaged as casual labourer after a gap of more than a decade. In view of the above, we hold that the application is without any merit and the same is rejected. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

KNM/CM.