

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.196 OF 1999
 Cuttack, this the 8th day of July, 2004.

Gauranga Dash. Applicant.

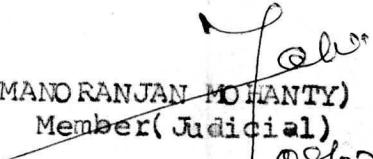
-Vs.-

Union of India & Ors. Respondents.

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not? No
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No.


 (B.N. SOM)
 Vice-Chairman


 (MANORANJAN MOHANTY)
 Member (Judicial)


 08/07/04

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 196 of 1999
Cuttack, this the 08th day of July, 2004.

C O R A M:

THE HON'BLE MR. B. N. SOM, VICE-CHAIRMAN
AND
THE HON'BLE MR. M. R. MOHANTY, MEMBER (J)

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Gauranga Dash. Applicant.

-Vrs.-

Union of India & Ors. Respondents.

For the Applicant: M/s. Biswajit Mohanty
S. Patra, Advocate.

For the Respondents: Mr. B. K. Bal, ASC.

O R D E R

MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL):

Non-engagement of the Applicant as a
Casual labourer (out of the panel prepared by the Respondents
in response to the Notification dated 28.5.96) is the subject
matter of challenge/grievance in this Original Application
filed under section 19 of the Administrative Tribunals
Act, 1985.

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2. Respondents-Department, by filing a counter, have disclosed that though initially it was notified that 907 Casual Labourers were required by the Respondents; subsequently, the figure was modified to 812, on the strength of the instructions received from the Chief Personnel Officer, Garden Reach, dated 21.06.1996 and that in response to the applications received, pursuant to Notification dated 28.05.1996, Interview was conducted and a panel (consisting of 611 selected candidates) was prepared on 10.10.1996; in which the name of the Applicant did not figure. It has been clarified, further, by the Respondents that out of the candidates empanelled, only 451 candidates joined their duties and rest of the candidates could not join (due to All India Postal Strike) by 31.10.1996 and that further engagement of Casual workers could not be done; because of the ban order issued by the higher authority on 31.10.1996. Respondents, in their counter denied the allegation of the Applicant with regard to engagement of the empanelled candidate in other divisions and with regard to another test.

3. Contradicting the averments made in the counter, the Applicant has filed a rejoinder; wherein it has been submitted by him that Respondents have intentionally suppressed the existence of another panel of 201 names, apart from the panel consisting of

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611 names admitted by the Respondents and that the letter dated 31.10.1996, basing on which further engagement of Casual Workers was denied to empanelled persons is also not applicable and the same was wrongly interpreted only to deprive the Applicant and similarly situated persons for engagement.

4. We have heard learned counsel for both sides and perused the materials placed on record. We have also taken note of the following decisions relied upon by the learned counsel for the Applicant during his argument:-

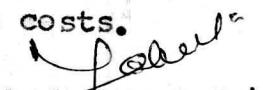
- a) AIR 2001 SC 1691 -Vijay Kumar Sharma and others Vs. Chairman, School Service Commission and others;
- b) AIR 2001 SC 1692 - Ashok Kumar and others Vs. Sita Ram;
- c) 1993(2)SLR 539 - Jagtar Singh V. The Director, Central Bureau of Investigation and Others;
- d) JT 1995 (9) SC 123- Jai Narain Ram Vs. State of UP and Others.

The main issue for adjudication is as to whether the Applicant is an empanelled candidate for engagement (under the Respondents) on casual basis ? and, even if his name is there in the second panel (as claimed by him) whether he can be offered with such engagement ? It is seen that nowhere in his Original Application, the Applicant has ever uttered a single word with regard to the existence of his name in the panel/

in the second panel; nor did he disclose that any of the persons, whose names find place after the name of the Applicant, has been offered such engagement. He has also not enclosed alongwith his Original Application or rejoinder copies of such panel prepared by the Respondents. No materials have also been produced by the Applicant showing that his name was in the panel; or has he ever asked to the Respondents to know it. While denying the averments made by the Applicant in his Original Application, the Respondents have also not stated that there is a second panel in which the name of the Applicant appeared. Rather, the Respondents have stoutly denied the existence of the name of the Applicant in the panel. In this view of the matter, we find no reason to believe that the Respondents have ever prepared the second panel in which the name of the Applicant finds place. Since the name of the Applicant did not figure in the panel, the citations relied upon by the Applicant are of no assistance, especially when ban on engagement of Casual Labourer was clamped during October, 1996. That apart, he has approached only in 1999 delayedly.

5. In the result, this Original Application is dismissed being devoid of any merit. No costs.


(B.N. SOM)
VICE-CHAIRMAN


(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)

08/02/04