

## NOTES OF THE REGISTRY

## ORDERS OF THE TRIBUNAL

ORDER DATED 31.1.2002,

Learned Counsel for the applicant and his associates are absent. There is also no request for adjournment. In this case counter has been filed on 6.1.2000. Inspite of passage of two years, the counter could not be served on the learned counsel for the applicant as he was not appearing on the different dates fixed to enable him to appear and receive counter. In view of this at the direction of the Tribunal, copy of counter has been served on the petitioner and receipt filed. As in this case pleadings have been completed long ago, it is not possible to drag on the matter indefinitely more so when without any request for adjournment. We have therefore, heard Shri Anup Kumar Bose, learned Senior Standing Counsel for the Respondents and have also perused the pleadings.

In this Original Application, the applicant has prayed for regularising his services under the Respondents whom he has styled as the principal employer which is ARC. He has also made a claim for equal pay for equal work. The third prayer is for a direction that the applicant shall be allowed to continue in his service in the same place till his absorption in the regular post.

The case of the applicant is that he was working as a contract labourer as Jr. Engineer on daily wages basis in Charibatia Roads and Building Sub Division-I, ARC, Charibatia, since 14.3.1990. He states that he had worked in the above roads and Building Sub Division-I

J. J.M

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under the supervision of Respondents i.e. Director, ARC and Dy. Director, ARC, two of the Respondents in this case. Applicant has stated that he had spent 9 years of service as contract labourer as Jr. Engineer and has completed Diploma in Civil Engineering in the year 1983. He had also undergone training from April, 1989 to April, 1990 in Mahanadi North Division, Jagatsipur, Cuttack and after completion of the training, he joined as Jr. Engineer, in Charibatia R&B Subdivision No. I on daily wage basis for execution of departmental works of ARC, Charibatia. He states that Respondents have issued employment notice at Annexure-3 for the post of Overseer. Applicant has stated that he has the necessary qualification and has also registered his name in the Employment Exchange. But he has not been called for the interview and the interview is going to be held on 23rd June, 1999. He has stated that there are clear vacancies under the Respondents and in the above context, he has come up in this original Application with the prayers referred to earlier.

By way of orders on interim relief passed on 22.6.1999, Respondents were directed to permit the applicant to appear at the interview but not to publish his result.

Respondents in their counter have stated that Charibatia R&B Sub Division I under which the applicant has stated to be working as Jr. Engineer on daily wage basis is under the administrative control of Govt. of Orissa and

SLM

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by no stretch of imagination, the Respondents can be taken to be the principal employer of the applicant. It is further stated that this sub-division-I is situated inside the Charbatia campus to execute new works, repair and maintenance work of office and residences outside the periphery of Air Field area. The CPWD which is an organisation of Govt. of India looks ~~at~~ <sup>after</sup> the repairing work of inside field area and therefore, the applicant's grievance has to be redressed <sup>by</sup> ~~at~~ the State Govt for regularisation and pay parity. <sup>SJM</sup>  
 It is further submitted that a post of Overseer was advertised on 11.9.98 but later on ARC Hqrs. had decided to confine the consideration to the persons sponsored by the Employment Exchange only and accordingly only those persons whose names were sponsored by the Employment Exchange ~~were~~ considered. It is further stated that in pursuance of the interim order of this Tribunal the applicant was allowed to appear at the interview but his result was not declared as per the orders on interim relief passed by this Tribunal. In the context of the above, the Respondents have opposed the prayers of applicant.

*SJM*

We have considered the pleadings of the parties carefully. Applicant has himself admitted in para 4.2 of the O.A. that he is working as a contract labourer as Jr. Engineer in R&B Sub-division I ARC Charbatia. Respondents have stated that R&B Sub Division I is an office of the State Govt. and therefore, the conclusion is inescapable that the applicant by his own statement is working as a contract labourer as

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Jr. Engineer under the State Govt. In view of this, he can not claim regularisation of his service under the ~~State~~ Govt. by way of appointment under Govt. of India in the offices controlled by the present Respondents before us. Prayer for regularisation is therefore, held to be without any merit and is rejected.

Applicant has further stated that he had applied for the post but he was not called to the interview and that is why in pursuance of the interim order of the Tribunal he was allowed to appear at the interview. Respondents have pointed out that they had decided to keep the recruitment confined to the persons sponsored by the Employment Exchange. There is no illegality per se in this. Moreover, in the present application the main prayer of applicant is not for consideration of his case as an open market candidate but only in the context of his having worked as a contract labourer in ARC Charoatia R&B Sub Division No.1. In view of this, applicant can not claim that he should be considered in the context of his <sup>above</sup> ~~prayer~~ for the post of Overseer under the <sup>from</sup> Respondents.

In view of the above, we hold that the applicant is not entitled to the reliefs claimed by him in this OA which is accordingly rejected. Interim order stands vacated. Respondents are directed not to publish the result of applicant in the interview. No costs.

1. Manoranjan Mohanty  
(MANORANJAN MOHANTY)  
MEMBER(JUDICIAL) 31.01.2002

Somnath Sen  
(SOMNATH SEN)  
VICE-CHAIRMAN