

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 309 OF 1999
Cuttack, this the 11th day of January, 2001.

D.Srinivas Rao and others Applicants

Vrs.

Union of India and others.... Respondents

FOR INSTRUCTIONS

1. Whethe 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 Soni
(SOMNATH SONI)
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

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CORAM:

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

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1. D.Srinivas Rao, aged about 26 years, son of D.Rama Babu, At/PO-Town, Dist. Koraput.
2. B.Laxmana, aged about 28 years, son of Pydithalli, P.O-Tumaka Pali Kottavalasa, Vijayanagaram (AP)
3. Shyamsundar Mali, aged 31 years, son of Samar Mali, At/PO-Town & Dist.Koraput.
4. Madhu Khilla, aged 26 years, son of Madal Khilla, Village-Dagadevala, P.O-Koraput, District-Koraput.
5. Dibyabhusan Turuk, aged 26 years, son of Christiranjan Sebak Turuk, At-Old Koraput, District-Koraput.
6. Bipin Charan Patra, aged about 26 years, son of Padma Patra, Vill-Pujaripur, Town & District-Koraput.

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Applicants

Advocates for applicants-M/s H.M.Dhal
P.K.Patnaik
L.Pani

Vrs.

1. Union of India, represented through its General Manager, S.E.Railway, Garden Reach, Calcutta-43(WB)
2. Divisional Railway Manager (P),
S.E.Railway, Waltair, At/PO-Visakhapatnam
3. Asst.Engineer, S.E.Railway, Koraput, At/PO-Koraput, District-Koraput.

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Respondents

Advocates for respondents - M/s
D.N.Misra
S.K.Panda

O R D E R
(ORAL)

SOMNATH SOM, VICE-CHAIRMAN

In this application the six petitioners have prayed for a direction to the respondents to appoint them as casual labourers on daily wage basis.

Respondents have filed counter opposing the prayer of the applicants.

2. As the learned lawyers have abstained from Court work for more than a month, we did not have the benefit of hearing Shri H.M.Dhal, the learned counsel for the petitioners and Shri D.N.Mishra, the learned Standing Counsel (Railways) for the respondents. The Hon'ble Supreme Court have strongly deprecated the action of the Courts in adjourning cases on the ground of abstention ^{from} / court work by the learned counsels. In the case of Ramon Services Pvt. Ltd. v. Subhash Kapoor and others, 2000 AIRSCW 4093, their Lordships have observed that in adjourning cases on the ground of abstention from court work by the learned lawyers, the defaulting courts may also be contributory to the contempt of the Hon'ble Supreme Court. In view of the above position of law as laid down by the Hon'ble Supreme Court, it is not possible to adjourn the matter any further. We have, therefore, perused the records.

3. For the purpose of considering this petition, it is not necessary to go into too many facts of this case. In any case, the basic facts necessary for determining this matter are not disputed. The admitted position is that the respondents issued a notice on 30.5.1996 (Annexure-R/1) for engagement of 737 casual labourers for a period of 119 days or upto 31.10.1996, whichever is earlier, for monsoon patrolling and track maintenance work. The number of posts was reduced subsequently to 583, out of which 55 posts were allotted to Assistant Engineer, S.E.Railway, Koraput

Subj:

Sub-Division. The present petitioners applied and after selection, were included in the select list, extract of which has been given at Annexure-1. Certain other persons, who had also applied for those 55 posts and were not included in the select list, approached the Tribunal in OA No.513 of 1996, and on the date of admission of the O.A. the Tribunal granted ad interim stay of appointment on 19.7.1996. After filing of showcause by the departmental authorities and hearing of the matter, in order dated 30.8.1996 the interim order of stay was made absolute. In OA No. 513 of 1996 the applicants did not make the selected candidates as parties. Some of the selected candidates applied through two intervention petitions to be impleaded as intervenors, and these intervention petitions were allowed. The prayer for vacation of stay made by some of the intervenors was, however, rejected in order dated 30.10.1996 in OA No.513 of 1996. Ultimately, OA No. 513 of 1996 was disposed of in order dated 25.1.1999 by rejecting the OA as also the prayer of the applicants therein to quash the select list. In the present Application six persons who were included in the select list have come up stating that even though they were duly selected and their selection was ultimately upheld by the order of the Tribunal in OA No.513 of 1996, but because of the stay order of the Tribunal in the earlier OA they could not be appointed. They have furtherstated that in certain Units where such engagement was ordered the selected candidates were engaged and some of them have also been regularised. In view of this, they have prayed for a direction to the respondents to engage them as casual labourers on daily wage basis.

S. Jum.

4. Respondents have stated that persons who applied for engagement as casual labourers have no locus standi to approach the Tribunal because they are not holders of civil posts and a person engaged as a casual labourer does not hold a civil post. They have also stated that the period for which such engagement was envisaged has already expired and therefore it is not possible to accede to the prayer of the applicants.

5. From the above recital of pleadings of the parties, it is clear that the facts of this case are not in dispute. The only question for consideration is whether the applicants should be denied engagement because of the stay order granted during the pendency of the earlier OA. As these petitioners were duly selected through a process of selection and their selection was upheld by the Tribunal in their order in OA No.513 of 1996, it is only just and proper that the applicants are given casual engagement which they would have got for the period mentioned in the employment notice, had there been no earlier litigation and no order of stay. But the period for which the persons were due to be engaged is already over. From the counter of the respondents in OA No.513 of 1996 we find that this engagement of fifty-five persons was meant for monsoon patrolling and maintenance of track work. Presumably, similar need will come up in the coming monsoon season. In view of this, the applicants in this case along with others who were in the earlier select list should be given engagement for 119 days or till 31.10.2001 in case such casual engagement is made. We also make it clear that if number

S. Jm.

of persons to be given such casual engagement in the coming monsoon season is less than the number of persons included in the earlier select list, which has been upheld by the Tribunal in the earlier O.A., then the engagement of persons should be strictly in accordance with their position in the select list and the six applicants will be given engagement in their turn according to their position in the earlier select list. The prayer of the applicants for getting engagement as casual labourers on a continuing basis is held to be without any merit because the earlier selection in which they participated was for engagement for a limited period and by becoming successful in that selection, they cannot claim any longer period of engagement.

6. In the result, therefore, the Original Application is disposed of with the observation and direction above. No costs.

(G.NARASIMHAM)

MEMBER(JUDICIAL)

Somnath Som
(SOMNATH SOM)

VICE-CHAIRMAN

January 11, 2001/AN/PS