

9

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 379/99

Cuttack, this the 11th day of March, 2004

Ashok Ku. Panda

.....

Applicant

Vrs.

Union of India & Others

.....

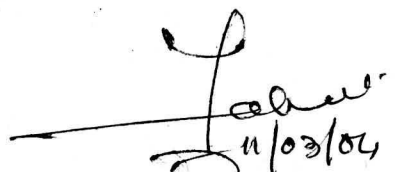
Respondent

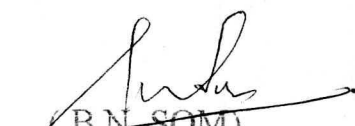
FOR INSTRUCTIONS

- (1) Whether it be referred to the Respondents or not ?
(2) Whether it be circulated to all the Benches of the Central
Administrative Tribunal or not?

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(M.R. MOHANTY)
MEMBER (JUDICIAL)


(B.N. SOM)
VICE-CHAIRMAN

10

CENTRAL ADMINISTRATIVE TRIBUNAL
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Cuttack, this the 10th day of March, 2004

CORAM:

HON'BLE SHRI B.N. SOM, VICE-CHAIRMAN

&

HON'BLE SHRI M.R. MOHANTY, MEMBER (J)

Shri Ashok Kumar Panda, aged about 33 years, son of Sri Bhajani Kumar Panda, Village-Bhingarpur, panda Sahi, P.O-Sasan, P.S-Baliana, Dist-Khurda at present resident of 219/2637, Shastrinagar, Unit-IV, Bhubaneswar, Dist- Khurda.

..... Applicant.

By the Advocate(s)

..... Mr. K.C. Kanungo

-Vrs-

1. Executive Engineer, Electrical, CPWD, Govt. of India, Office of the Executive Engineer, Electrical, Bhubaneswar Central Electric Division, Plot No.34, Unit-8, Bhubaneswar-12, Dist-Khurda.
2. Director, South Eastern Circle, Surveyor of India, Post-Regional Research Laboratory, Bhubaneswar-13, Dist-Khurda.
3. J.C. Nayak, Electrical Contractor, Plot No.156, Station Square, Bhubaneswar-1, Dist-Khurda.

..... Respondent(s)

By the advocate(s)

..... Mr.A.K. Bose,

O R D E R

SHRI B.N. SOM, VICE-CHAIRMAN: This application has been filed by

Shri Ashok Kumar Panda, seeking direction to be issued to Respondent No.1

7

to regularize his service in the post of wireman or any other similarly designated post under the Respondents Department.

2. The Respondents have opposed the application on the ground that the applicant was neither a contract labour nor was engaged by Respondent No.1 on daily wage basis. On the other hand, they allege that the applicant was an employee of a contractor engaged by Respondent No.3 and therefore it was clear that the Respondent No.1 or his Department had nothing to do with the case of his regularization in service. It has also been disclosed and the same has been admitted by the applicant that he had carried this matter in a dispute before the Assistant Labour Commissioner (Central) where a conciliation proceeding ended in failure as reported by the Assistant Labour Commissioner (Central), Bhubaneswar, vide his letter dated 26.02.99 at Annexure-6. On failure of conciliation proceeding, the matter was considered by the Ministry of Labour who by virtue of its order dated 30.07.99 referred the matter to Industrial Tribunal, Bhubaneswar for adjudication. It has been further disclosed by the Respondent No.1 and admitted by the applicant that he did not press the matter before the Industrial Tribunal. During the hearing of the matter the Ld. Counsel for the applicant submitted that the applicant was not aware of the whole matter as

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the conciliation failure report was not made available to him and by the time he got the information that the matter had been referred by the Ministry of Labour to the Industrial Tribunal for adjudication he had already filed this Original Application and therefore he was effectively prevented from pursuing the matter before the Industrial Tribunal.

3. We have very carefully considered the facts of the case. This application in its present form is not maintainable before this Tribunal. It has also been held in a catena of cases that disputes of this nature raised by an employee of a contractor is not maintainable before this Tribunal. This being the position of law in the matter, we are of the opinion that the applicant should avail of the opportunity offered to him by the Ministry of Labour to go before the Industrial Tribunal to seek relief. The question of delay in approaching that Tribunal will also have to be answered by the applicant. We, therefore, grant liberty to the applicant to explain the delay for approaching the Industrial Tribunal late by stating the facts as he has submitted before us during hearing of this matter.

13

- 9 -

With the above direction this Original Application is disposed of. No costs.


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(B.N. SOM)
VICE-CHAIRMAN

CAT/CTC
Kalpeswar