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CENTRAL ADMINISTRATIVE TRIBUNAL

CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO. 455 of 1999
CUTTACK THIS THE 16TH DAY OF MAY, 2001

A.K. Sahoo Petitioner

-Vrs-

Union of India & others Opp. Parties

For Instructions

1. Whether it be referred to 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
16.5.2001)

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ORIGINAL APPLICATION NO. 455 of 1999

CUTTACK THIS THE 16th DAY OF, MAY, 2001

CORAM:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN

THE HON'BLE SHRI G. NARASIMHAM, MEMBER (J)

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Ananta Kishore Sahoo,
Aged about 27 years,
S/o Sri Kartika Chandra Sahoo,
A. Achyutpur, P.O. Dharmala,
Dist-Jajpur.

Petitioner

By the Advocate (s)

M/s Rabin Nayak

- VERSUS -

1. Union of India, represented by its
Secretary, Govt. of India
Ministry of Home Affairs, New Delhi.
2. Registrar, General of India (Census),
New Delhi.
3. Director of Census Operations,
Orissa, A. Sahid Nagar, Unit-IX,
Bhubaneswar, Dist. Khurda.
4. Deputy Director,
Census Operation, Orissa,
Janapath, Unit-IX, Bhubaneswar
Dist. Khurda
5. State of Orissa, Represented by the
Chief Secretary, Govt. of Orissa,
Department of General Administration,
At/Po-Bhubaneswar,
Dist- Khurda.

Respondent

By the Advocate (s)

Mr. A.K. Bose

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ORDER

SOMNATH SOM, VICE-CHAIRMAN:- In this original application the petitioner has prayed for a direction to Deputy Director, Census Operations, Orissa (Respondent No.4) to absorb the applicant on regular basis in any Class-IV post. The second prayer is for a direction to Director of Census Operations, Orissa (Respondent No.3) and Deputy Director Census Operations, Orissa (Respondent No.4) to provide applicant any Class-IV post on regular basis.

2. Respondent No 1 to 4 representing Census Department have filed counter opposing the prayer of the applicant. Respondent No.5 State of Orissa has also filed a separate counter opposing the prayer off the applicant. No rejoinder has been filed.

3. The applicant's case is that he was appointed as a casual labourer-cum-choukidar under Respondent No.3 from 4th December, 1990 up to 30th October, 1993 getting Rs.25/- per day. From 1994 onwards he was engaged on daily wage basis for each fortnight with a gap of 2 days and worked upto January, 1998 getting daily wage of Rs.25/-. For these engagements no appointment order was issued to him and no retrenchment order has also been given. He has filed representation for getting regularised against the vacant Class-IV post available in the Census Directorate but without any result. He has also stated that he has worked for more than 240 days and is thus entitled to be regularised. It is further stated that some of the retrenched employees under the Census Directorate had been given appointment by the Revenue and Excise Department, Govt.

of Orissa, in some case even by giving age relaxation, but his case has not been so considered. Against the above background applicant has come up with the prayers referred to earlier.

4. State Government in their counter has pointed out that no relief has been claimed against the State Government. They have further stated that State Government took a decision to consider engagement of retrenched Census employees and for this purpose Census Directorate furnished a list of 192 names. After allowing age relaxation only 147 out of them were found eligible for employment under State Government and accordingly names of these 147 employees were forwarded to all Departments of Government Heads of Departments and Collectors for consideration of their case, if they apply for some vacant posts for which they are eligible under the Recruitment Rule. State Government have indicated that the name of the applicant was not forwarded by the Census Directorate.

5. Respondents 1 to 4 in their counter have stated that the applicant worked as a casual labourer on daily wage basis from December, 1990 to October, 1993 in connection with the 1991 census. During this period he was never appointed on a regular basis. He was working as and when work was available for casual labourer. He was never engaged from 1994 onwards on fortnightly basis as claimed by him. They have further stated that the applicant was neither sponsored by any Employment Exchange nor selected through any regular recruitment process before giving him engagement on daily wage basis as casual worker. These respondents have also stated that no Class-IV post is lying vacant in the Census Directorate of Orissa. They have further stated that some Class-IV (Group 'D') Employees are

facing retrenchment as they have became surplus to the sanctioned strength. In the context of the above they have opposed the prayer of the applicant.

6. We have heard Shri G.K. Nanda, Learned Counsel for the petitioner, Shri K.C. Mohanty Learned Govt. Advocate for Orissa and Shri A.K. Bose, Learned Sr. Standing Counsel appearing for respondents 1 to 4.

7. The averments of respondents 1 to 4 that the applicant was not engaged on being sponsored by the Employment Exchange or that he was not selected through a regular selection process have not been denied by the applicant by filing any rejoinder. There are decisions of the Hon'ble Supreme Court that persons who have been engaged as a casual labourer otherwise than through the Employment Exchange cannot claim regularisation in service because that will be a backdoor entry to the service through an alternative channel of Recruitment. Besides respondents have stated that at present there are no vacancies in Class-IV category and even some of the regular employees are facing retrenchment because of reduction of posts. In view of the above the prayer of the applicant for getting regularised against a Class-IV post under the Census Directorate is held without any merit and is rejected.

JKW

8. The second prayer of the applicant is for a direction to respondents 2, 3 & 4 to engage him in any Class-IV post. When the regular incumbents are facing retrenchment on account of reduction of posts, no such direction can be issued. But in case the Census Directorate again engages casual workers, then the applicant will have to be given preference over fresh hands

because of his earlier engagement under Census Directorate as a casual labourer. We direct respondents 3 & 4 accordingly.

9. In the result, therefore, the Original Application is disposed of in terms of observation and direction above. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Summ. of m.
SUMNATH SON
VICE-CHAIRMAN
16.5.201

K.B//