

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.ORIGINAL APPLICATION NO. 555 OF 1999
Cuttack, this the 21st day of August, 2000

Laxmikanta Paramanik Applicant

Vrs.

Union of India and others Respondents

FOR INSTRUCTIONS

1. Whether 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 Som,
(SOMNATH SOM)
VICE-CHAIRMAN
21.8.2000

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CUTTACK BENCH, CUTTACK.

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CORAM:

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

.....
Laxmikanta Paramanik, aged 47 years, son of Sri Bhikari Ch. Paramanik of Anantapur, P.S-Soro, Dist.Balasore, working as Weaving Assistant, Weavers' Service Centre, Bhubaneswar, Plot No.A/407, Maharshi College Road, Saheed Nagar, Bhubaneswar-751007, Dist.Khurda....Applicant

Advocates for applicant - M/s P.K.Lenka
F.Mohapatra
M.K.Panda
D.R.Patnaik

Vrs.

1. Union of India, represented through its Commissioner-cum-Secretary, Ministry of Textiles, Udyog Bhawan, New Delhi.
2. Development Commissioner for Handlooms, Ministry of Textiles, Udyog Bhawan, New Delhi.
3. Director, Ministry of Textiles, Weavers Service Centre, Pub Sarani, Guwahati-781 000
4. Officer-in-charge, Weavers Service Centre, Plot No.A/407, Maharshi College Road, Saheed Nagar, Bhubaneswar, Dist.Khurda.... Respondents

Advocate for respondents -Mr.A.K.Bose
Sr.C.G.S.C.

O R D E R
SOMNATH SOM, VICE-CHAIRMAN

In this application the petitioner has prayed for quashing the order dated 7.10.1999 (Annexure-6) reverting the applicant from the post of Weaving Assistant to the post of Sizer.

2. The applicant's case is that he originally joined as Occupational Attendant (Weaving) in Weavers' Service Centre, Bhubaneswar on 10.5.1978 on probation for two years. He was confirmed in that post and

was promoted in 1983 to the post of Sizer on ad hoc basis and posted to Weavers' Service Centre, Vijayawada. The order of promotion dated 21.10.1983 is at Annexure-2. In order dated 19.10.1984 (Annexure-3) he was regularly appointed as Sizer with effect from 11.4.1984. In order dated dated 4.11.1986 the applicant along with others was promoted as Weaving Assistant on ad hoc basis on his willingness and was posted from Vijayawada to Weavers Service Centre, Chamoli. Accordingly, he joined as Weaving Assistant at Weavers Service Centre, Chamoli. The applicant has stated that since the date of his appointment he is discharging his duties to the best satisfaction of the authorities. He was made quasi permanent in the post of Occupational Assistant with effect from 18.5.1981 in order at Annexure-5. While he was working as Weaving Assistant, he was transferred to different Weavers Service Centres and is presently working as Weaving Assistant in Weavers Service Centre, Bhubaneswar from 30.4.1992. Thus, for the last thirteen years he has been working as Weaving Assistant. Suddenly in order dated 7.10.1999 (Annexure-6) he has been reverted to the post of Sizer in public interest and posted at the same organisation, i.e., Weavers Service Centre, Bhubaneswar. In the context of the above facts, the applicant has come up with the prayer referred to earlier.

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3. The respondents in their counter have admitted the averments of the applicant regarding his original appointment as Occupational Assistant, his promotion and subsequent regularisation in the post of Sizer. They have stated that the applicant along with others was promoted to the post of Weaving Assistant on ad

hoc basis on 3.11.1986. They have also stated that since the date of appointment the applicant is discharging his duties sincerely to the best satisfaction of the authorities. The respondents have stated that the applicant was promoted on ad hoc basis to the post of Weaving Assistant before zonalisation of the organisation in 1987. His ad hoc promotion was a temporary arrangement to fill up the vacancy in the post of Weaving Assistant. Though some persons senior to the applicant were there they refused to accept promotion on ad hoc basis and therefore the applicant was promoted on ad hoc basis. The respondents have stated that the applicant had to be reverted due to the instruction dated 30.3.1985 (Annexure-I) which provides that ad hoc appointment cannot be for more than one year. The respondents have stated that because of this he had to be reverted and no injustice was done in his case because the ad hoc appointment did not confer any right on him to continue on regular basis. The respondents have stated that the question of filling up four vacancies in the post of Weaving Assistant was taken up. According to the Recruitment Rules 50% are to be filled up by promotion from amongst Sizers and Warpers and 50% by direct recruitment. Accordingly, the seniormost Warper, i.e., B.Tanti from General category has been promoted on regular basis and the seniormost Warper Smt.Ningkhangi who belongs to ST category has also been considered for promotion. As per the seniority list of Warpers and Sizers the applicant is not senior to B.Tanti who has been promoted. Nobody junior to him in the post of Sizer and Warper has been promoted. In view of this, the respondents have

opposed the prayer of the applicant.

4. The applicant in his rejoinder has mentioned that the respondents in their counter have stated that the applicant is a general candidate whereas actually he belongs to scheduled caste. In the gradation list circulated on 5.5.1993 at Annexure-7 it has been clearly mentioned that he belongs to scheduled caste. It is also stated that in the Eastern Region there are seven sanctioned posts of Weaving Assistant of which 4 are permanent and three are temporary. The applicant has been continuing as Weaving Assistant on ad hoc basis since 28.11.1986 and has thus completed more than thirteen and half years in the post. The persons senior to him did not opt for going on promotion on ad hoc basis because they were afraid of being transferred whereas the applicant has gone on ad hoc promotion and therefore the petitioner should be regularised in that post.

5. We have heard Shri P.K.Lenka, the learned counsel for the petitioner and Shri A.K.Bose, the learned Senior Standing Counsel for the respondents and have also perused the records.

6. The stand of the respondents in support of the order dated 7.10.1993 (Annexure-6) reverting the applicant to the post of Sizer is two-fold. Firstly it is stated that according to the Department of Personnel & Training's circular at Annexure-R/1 ad hoc appointment could not have continued beyond one year and that is why the applicant has been reverted. This contention cannot be accepted because the applicant has continued on ad hoc basis for more than 13 years and it cannot be said that

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because of the DOPT's circular of 1985 he has been reverted only in 1999 after having been promoted to the post of Weaving Assistant on ad hoc basis in November 1986.

7. The next ground is that the applicant was given ad hoc appointment over the head of his seniors because seniors were not willing to go on transfer due to ad hoc nature of appointment and at the time of regular appointment, two persons senior to the applicant have been promoted. At our instance the learned Senior Standing Counsel has submitted the seniority list of Weaving Assistants as also Warpers and Sizers and we have perused the same. From these we find that two posts of Weaving Assistant have been filled up by Smt. Ningkhangi and Shri B.Tanti. Smt.Ningkhangi is a Scheduled Tribe candidate and is the seniormost ST candidate amongst Warpers and Sizers. As regards Shri B.Tanti, we find from the seniority list that there are two persons named B.Tanti. The respondents have pointed out that B.Tanti is the seniormost Warper. He was also given ad hoc promotion along with the applicant as ad hoc Weaving Assistant in the order at Annexure-4. He was appointed as Warper on 1.12.1980 prior to the applicant's joining as Sizer and he is senior to the applicant. In view of this, the applicant cannot have any grievance about regular appointment of Shri B.Tanti and Smt.Ningkhangi to the post of Weaving Assistant as B.Tanti is senior to him and Smt.Ningkhangi is the seniormost ST candidate. In the seniority list of Sizers there are three persons above the applicant. In view of this the applicant cannot claim that over the head of his seniors he should have been promoted. The applicant

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has stated that there are seven posts of Weaving Assistant. But from the seniority list we find that there are six posts, 5 permanent and 1 temporary, and three persons are in position. The balance would have been 3. But the respondents have pointed out that for four vacancies they considered two persons under 50% promotion quota. This goes to support the applicant's stand that there are seven posts of Weaving Assistant. But as only two posts out of four vacancies are to be filled up by promotion and two persons senior to the applicant have been promoted the applicant can have no grievance. This contention is therefore held to be without any merit and is rejected.

8. It has been submitted by the learned counsel for the petitioner that the applicant belongs to SC, but the respondents have mentioned in their counter that he belongs to general category. We find from the seniority list that the applicant has been noted to be belonging to SC and the applicant can have no grievance on this score as well.

9. In the result, therefore, we hold that the application is without any merit and the same is rejected. No costs.


(G.NARASIMHAM)

MEMBER (JUDICIAL)


(SOMNATH SOM)
21-8-2000
VICE-CHAIRMAN