

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.557 OF 1999
Cuttack this the 15th day of February/2001

Hari Chandra Das --- Applicant(s)

JEROME SULLIVAN

Union of India & Others --- Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? 75.
2. Whether it be circulated to all the Benches of the N.A. Central Administrative Tribunal or not ?

Somnath Som
(SOMNATH SOM
VICE-CHIEF 20.
COMMISSIONER)

(G.NARASIMHAM)
MEMBER (JUDICIAL)

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CORAM:

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

Shri Harichandra Das, aged about 33 years,
S/o. Debendra Chandra Das, Resident of
Vill-Sainsa (Nakuleswar Nagar) PO:Gaba Basta
Via-Phulnakhara, PS:Sadar, Dist-Cuttack,
present working as Lift Operator in the
Income Tax & Central Excise Revenue Building
Rajaswa Vihar, Vani Vihar, Bhubaneswar

Applicant

By the Advocates

M/s.N.K.Mishra
S.K.Mishra
Sudhir Kr.^MMishra
Sabyasachi Mishra
S.N.Dwibedy

-VERSUS-

1. Union of India represented through
Director General (Works) C.P.W.D.
Nirman Bhawan, New Delhi-110001
2. Chief Engineer (Electrical) Eastern Zone,
C.P.W.D., Nizam Palace, 234/9, A.J.C.Bose Road,
Calcutta-20
3. Superintending Engineer (Electrical)
Eastern Zone, C.P.W.D., Nizam Palace, 234/9,
A.J.C.Bose Road, Calcutta-20
4. Executive Engineer (Electrical), Bhubaneswar
Central Electrical Division, CPW.D., Plot No.3A,
Unit-VIII, Bhubaneswar
5. Assistant Engineer, Bhubaneswar Central Electrical
Sub-Division-II, C.P.W.D., Plot No.3A, Unit-VIII,
Bhubaneswar

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Respondents

By the Advocates

Mr.A.K. Bose,
Sr.Standing Counsel
(Central)

O R D E R

MR.G.NARASIMHAM, MEMBER (JUDICIAL): In this Application for
applicant's regularisation as Lift Operator under the Respondents
(C.P.W.D.), the case of the applicant is that since 1.6.1990,
he has been operating lift of the Income Tax and Central Excise

Building (Rajaswa Vihar) at Vani Vihar area of Bhubaneswar.

At first Respondent No.4 issued work order (Annexure-1) in his favour for Rs.1000/- per month for the period from 1.6.1990 to 30.11.1990. Similar such orders followed one after another with ~~enhanced~~ ~~contractual~~ rates upto the end of 31.10.1999 (Annexure-2 series).

His work was being supervised by Respondent No.4. He made special representations (Annexures-3 to 7) for his regularisation, but without any response. Lift Operation in that building is a perennial necessity and this work is a permanent one. Respondents though made use of him as Lift Operator continuously for long years had not regularised his service. Hence this application.

2. The Respondents' case is that no post of Lift Operator for that building was created by the Government. Most of the works of the respondents Department are being attended on contract basis and the contracts are signed as per the prevailing procedures and norms. After the lift was installed in that building in 1990, the contract was signed in favour of M/s. Harichandra Das of Bhubaneswar through a work order for a period of 5 to 6 months and similar orders were issued in favour of that contractor, prior to December, 1999. However, in October, 1999 tender was called and the work had been assigned in December, 1999 to another contractor, viz. M/s. Sri Jaganath Enterprise, Bhubaneswar. Since this contract work was no more extended, the applicant being aggrieved filed this Original Application which is not maintainable. The applicant being bound by the contract work orders, has no claim for regularisation. He is neither a casual labourer nor a temporary Govt. servant.

3. In the rejoinder, the applicant though admitted

contractual orders were being issued in his favour, strongly pleads that relationship of Master and Servant had been very much subsisting inasmuch as his performance was thoroughly monitored and supervised by the Respondents. However, there is no denial that prior to filing of this O.A. the work was entrusted to some other contractor.

4. As the Advocates had continuously abstained from attending Courts from 7.12.2000 onwards, including the date of hearing of this case and the parties also were absent, we closed the hearing of this case after perusal of the record, in view of the ruling of the Apex Court in Raymon Services (P) Ltd. vs. Subhash Kapoor reported in 2000 AIRSCW 4093 seriously deprecating the practice of Courts in adjourning hearing of cases during the days of boycotts by the Advocates.

5. Pleadings are clear that work orders for contract work in operating the lift of the Building were being issued in the name of the applicant from 1.6.1990 till October/99, whereafter this contract was assigned to another person. It is not the case of the applicant that he was ever engaged as casual labourer. It is true that the work is of a permanent nature. But this would not necessarily mean that there was Master and Servant relationship between the parties. Averment in the rejoinder that applicant's performance was being thoroughly monitored by the Respondents being a new fact and the respondents having no opportunity to reply, the same cannot be taken note of. We are not satisfied that there was even any master and servant relationship between the parties. Hence question of regularisation does not arise and that too in a post not sanctioned or created.

In the result application fails and is dismissed.

No costs.

Somnath Som
SOMNATH SOM
VICE-CHARTERED
15/2/2001

15/2/2001
(G.NARASIMHAM)
MEMBER (JUDICIAL)