

712  
CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH;CUTTACK

ORIGINAL APPLICATION NOS.341 & 482 OF 2000  
Cuttack this the 24<sup>th</sup> day of Sept/03

IN O.A.No.341/2000

Umakanta Pradhan ... Applicant(s)

IN O.A.No.482/2000

Trilochan Rout & Another ... Applicants

- VERSUS -

Union of India & Others ... Respondents

(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*

*[Signature]*  
(M.R.MOHANTY)  
MEMBER(JUDICIAL)

*[Signature]*  
( B.N. SOM )  
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NOS. 341 & 482 OF 2000  
Cuttack this the 26<sup>th</sup> day of Sept/03

CORAM:

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

AND

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

...

IN O.A. 341/2000

Umakanta Pradhan, aged about 33 years,  
S/o. Late Rasananda Pradhan, At-Gopinathpur  
PO-Gopinathpur, PS-Salipur, Dist-Cuttack

...

Applicants

-VERSUS-

1. Union of India, represented through Secretary,  
Deptt. of Telecommunications, Sanchar Bhawan,  
New Delhi
2. Divisional Engineer, Telecom, Microwave Project,  
Budharaja, Sambalpur-4
3. Director, Telecom Projects, Modipara, Sambalpur
4. Divisional Engineer (Admn.), Telecom, Office of  
the Chief General Manager, Telecom Projects,  
Eastern Zone, Raja Subodh Mallik Square,  
Calcutta-13
5. Chief General Manager, Telecom, Orissa, Telecom  
Circle, P.M.G. Square, Bhubaneswar-1
6. T.K. Mandal, S.D.E. Sub-Divisional Engineer  
Telecom, Microwave Project, Sambalpur
7. H.P. Mahato, Sub-Divisional Engineer,  
Microwave Project, Sambalpur
8. L. Panigrahi, J.T.O., now Sub-Divisional Engineer,  
Office of the Director, Telecom Projects,  
Modipara, Sambalpur
9. S.N. Hota, Presently Sub-divisional Engineer,  
Office of the D.E.T.(P), Nawrangpur
10. R.K. Padhi, J.T.O., Office of the D.E.T.  
Microwave Projects, (Telecom), Sambalpur
11. B.C. Panda, presently Sub-divisional Engineer,  
Office of Divisional Engineer (Instl.),  
Madhupatna, Cuttack

...

Respondents

IN O.A.482/2000

1. Trilochan Routray, aged about 33 years,  
S/o. Arjuni Routray, At-Janardanpur  
Dist-Cuttack
2. Bhagirath Sethi, aged about 34 years,  
S/o. B.Sethi, At-Baruapada, Dist-Bhadrak

... Applicants

-VERSUS-

1. Union of India represented through Secretary,  
Ministry of Telecommunications, Sanchar Bhawan,  
New Delhi
2. Divisional Engineer, Telecommunications,  
Microwave Project, Budharaja, Sambalpur
3. Director, Telecom Projects, Modipara, Sambalpur
4. Divisional Engineer(Admn), Telecom, Office of  
the Chief General Manager, Telecom Projects,  
Eastern Zone, Raja Subodh Mallik Square,  
Calcutta
5. Chief General Manager, Telecom, Orissa, Telecom  
Circle, P.M.G. Square, Bhubaneswar-1

... Respondents

Advocates for the Applicants  
in both the Original Applications

M/s. A.K. Mishra  
B.B. Acharya  
J.R. Dash  
D.K. Panda  
P.R.J. Dash  
C. Mohanty

Advocates for the Respondents  
in both the Original Applications

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

.....

-3-  
O R D E R

MR.B.M. SOM, VICE-CHAIRMAN: Since in both the above mentioned Original Applications the point for adjudication is one and the same, we direct that this common order will govern both the OAs. However, for the sake of convenience, the facts and circumstances as mentioned in O.A.341/2000 are dealt with.

2. O.A. No.341/2000 has been filed by Shri U.K. Pradhan (applicant) challenging the inaction of the Respondents-Department in not conferring temporary status on him, even though persons junior to him have been conferred with the same.

In short, the facts of the case are that the applicant was appointed as casual labour on 3.5.1998. The Respondents used to engage him for clerical duties as also in accounts work. While he was so working, the Department of Personnel & Training, by issuing a circular dated 7.6.1988 introduced a scheme and had instructed the various Ministries/Department to consider the casual labours recruited before 7.6.1988 for regular appointment to Group-D, even if they were recruited otherwise than through Employment Exchange and had crossed the upper age limit. Even though the applicant had been appointed prior to the cut off date, he was not regularised - rather he was thrown out of employment. Thereupon he along with others had filed Original Application No.448 of 1995 before this Tribunal. In spite of that the Respondents did not confer temporary status on him nor was he regularised. The applicant further submitted that he was paid wages starting from May, 1998 and that

54  
that he had worked under Res. 7 to 10 at different intervals and was paid wages also. He further furnished wage certificates from the said authorities at Annexure-1 series. The documents at Annexures-2, 3 and 4 filed, by him, according to him, would substantiate that he had been engaged in different capacities and was also paid wages by the Respondents. In spite of this, they did not extend the benefit of the scheme of regularisation of casual labours, issued by Res. 1 on 7.11.1989. Aggrieved by this inaction on the part of the Respondents, the applicant, in this Original Application under Section 19 of the A.T. Act, 1985, has prayed that the Hon'ble Tribunal may be pleased to direct the Respondents-Department to confer temporary status on him.

3. The Respondents-Department have contested the application by filing a counter. They have submitted that the allegation of the applicant that his demand for conferring temporary status was not considered is totally baseless. Referring to the decision in O.A.448/95 rendered by this Tribunal, the Respondents have stated that they were directed in that O.A. to get the Bill Nos. mentioned in the working certificates at Annexure-3, to the O.A. to come to a finding if the applicant(s) were engaged in May, 1988 and June, 88 and if they had continued till July, 1995. The Tribunal further directed that in case they were engaged during May/June, 1988 and had continued till the time, the circular dated 25.6.1993 came into force, the applicants should be conferred temporary status as they would be covered by that scheme for regularisation of casual

2



workers introduced by the Respondents-Department. They have further submitted that after receipt of the judgment of this Tribunal, the relevant records were verified and it was found/established that the applicants were not engaged prior to 22.6.1988. It also revealed that the Bill Nos. ~~xx~~ mentioned in the working certificates, as submitted the applicants, were false. This information was formally submitted to the Hon'ble Tribunal on 16.9.1999 also. The Respondents, in their counter have gone to the extent of stating that the vouchers' Nos. as mentioned by the applicants are imaginary and not genuine and that the said vouchers did not match with the original vouchers. The Respondents have also opposed the prayer as made by the applicant in this O.A. on the ground of constructive resjudicata.

4. We have heard the learned counsel for the appellant and the learned Senior Standing Counsel appearing on behalf of the Respondents-Department and also perused the materials adduced before us.

5. This Original Application ipso facto is misconceived inasmuch as the applicant, by adopting a subterfuge has made an attempt to overreach the decision as emanated from this Tribunal in O.A.448/95. Had it not been so, the applicant would not have dared to make patently a wrong submission at Para-7 of the O.A. by verifying that he had not previously filed any application in the same matter whereas he was one of the contending parties in O.A.448/95. This statement is not only travesty of truth, but it is contumacious. The Tribunal, being

the court of first instance, it is always expected that the person(s) aggrieved should approach it without suppression of any material facts, lest the Tribunal should arrive at a conclusion reductio ad absurdum. Not only that we are deeply concerned the way in which the applicant has sought to mislead the Tribunal and has adopted a questionable means to snatch a personal benefit. While deprecating this frivolous attitude of the applicant, we must hold that the applicant by his own conduct has made abuse of the process of the Tribunal. For this, we warn the applicant to be more careful in future and while approaching the Tribunal he should come up with clean hands. We too, for the aforesaid reasons, feel it proper to caution all concerned that only to sue is not their bounden duty, but to ensure that truth and truth alone is brought before this Tribunal for securing fair-play and justice.

6. So far as merit of the matter is concerned, the issue with regard to entitlement for conferment of temporary status under the relevant scheme of Department of Telecommunications, as indicated vide their circular dated 25.6.1993 is concerned, this issue having been answered in O.A.448/95 and the Respondents-Department vide their intimation dated 16.9.1999 having informed the Tribunal as well as the other parties that as the applicants had not been engaged prior to 22.6.1988 and the Bill Nos. and service certificates furnished by them were false and fabricated, they were ineligible for consideration, the present Original Application, in our considered view, is severely hit by the principle of

constructive res judi cata.

7. For the reasons aforesaid, both the Original Applications ( C.A.Nos.341 and 482 of 2000 ) besides being devoid of merit, are not maintainable and accordingly, we dismiss the same. No costs.

*M.R. Mohanty*  
(M.R. MOHANTY) 26/09/03  
MEMBER (JUDICIAL)

*B.N. Som*  
( B.N. SOM )  
VICE-CHAIRMAN

By/