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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO. 56 OF 2000
Cuttack this the 7th day of March/2002

Chandramani Nayak

...

Applicant(s)

-VERSUS-

Union of India & Others

...

Respondent(s)

(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 ? Yes

Manoranjan Mohanty

07/03/2002
(MANORANJAN MOHANTY)

MEMBER (JUDICIAL)



CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO. 56 OF 2000
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CORAM:

THE HON'BLE SHRI MANORANJAN MOHANTY, MEMBER (JUDICIAL)

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Chandramani Nayak, aged about 60 years,
Son of Late Ekadasi Nayak, Village-Chandia,
PO/PS-Nihal Prasad, Dist-Dhenkanal, retired
P.Way Mate (PCR) under IOW(C)/Rairakhol,
S.E.Railway, Sambalpur

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Applicant

By the Advocates

M/s.N.R. Routray
S.Mishra
U.K.Bhatt

-VERSUS-

1. Union of India represented through the General Manager
South Eastern Railway, Garden Reach, Calcutta-43, West Bengal
2. Chief Engineer, Construction, South Eastern Railway,
Garden Reach, Calcutta-43
3. Divisional Railway Manager, S.E.Rly., Khurda Rd.Divn.,
At/PO/PS-Jatni, Dist-Khurda
4. Senior Project Manager, S.E.Railway, Cuttack
5. P.W.I.(Construction), S.E.Railway, Cuttack
6. Divisional Accounts Officer, S.E.Rly.,
At/PO-Jatni, Dist-Khurda

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Respondents

By the Advocates

Mr.C.R.Mishra, A.S.C.

O R D E R

MANORANJAN MOHANTY, MEMBER (JUDICIAL) : Heard the learned counsel
on either side.

2. Applicant was engaged as casual Mate under the
S.E.Railways from 24.4.1996, obviously, with breaks. He was
conferred with Temporary Status in the year 1983 and was,
ultimately, taken to Permanent Construction Reserve (P.C.R.)
post by way of regularisation w.e.f. 1.4.1984. It is the
case of the applicant that for the reason of the circular
dated 26.4.1989 under Annexure-2, his entire periods of

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casual service ought to have been taken into account/ computation for conferring Temporary Status on him from a date well before 1983 and thereby he should have been absorbed against the P.C.R.Post well before 1984.

3. In the counter filed by the Respondents it has been disclosed that the applicant faced lawful discontinuance of casual engagement on 23.10.1979, for which he was granted terminal benefits as available under the Industrial Disputes Act and, thereafter, he was again engaged as a Casual Mate/ worker and conferred with Temporary Status in 1983 and, consequently, the permanent status in 1984, by computing the periods of his engagements given after 23rd October, 1979. Precisely, it is the case of the Railways that the entire period of casual service rendered by the applicant from 24.4.1966 upto 23rd October, 1979 were not computed for conferring Temporary Status on him and, resultantly, in the case of providing him Permanent Status.

4. The very scheme of the Railways, ^{as} accepted by the Apex Court of India, was to regularise the casual workers, exploited by the Railways for years together, and therefore, under the scheme of regularisation, a Live Casual Register was drawn by computing the entire periods of engagement as casual workers. Obviously, casual workers were engaged as and when they were called upon and they are never given work continuously. The applicant undisputedly worked as a casual worker/Mate between 24.4.1966 and 23.10.1979 and, while disengaging him, lawful entitlements were provided to him and, simply because lawful entitlements were given to him, his periods of service as casual engagement between



24.4.1966 and 23.10.1979 could not have been ignored for computation for the purpose of conferring on him Temporary Status and/or to keep his name in the Live Casual Register and to provide him ultimate regularisation in the Regular Establishment. This denial has virtually defeated the very purpose of scheme for regularisation drawn up, by the Railways, with the approval of the Apex Court of India. It is not the case that materials are not available pertaining to the applicant in respect of the period of service rendered by him as casual Mate between 1966 and 1979. Therefore, the Respondents are bound to compute the above periods of service/casual engagement of the applicant for the purpose of conferring him Temporary Status and regularisation in the Regular Establishment of the Railways.

5. In this view of the matter, Respondents are directed to recompute the entire periods of casual engagement of the applicant, including the period of casual engagement rendered by him between 24.4.1966 and 23.10.1979, and to consequently ante date his Temporary Status as well as the Permanent Status and ^{to} consequently give him necessary consequential benefits.

6. The Advocate for the Respondents has also raised a hyper technical question of limitation. But when injustice is glaring, such hyper technical objection, with regard to limitation, cannot stand in the way for dispensation of justice. Thus, this objection is overruled.

7. In the result, the O.A. succeeds. However, there shall be no order as to costs.

B.K.Sahoo//



T. Manoranjan Mohanty
(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)
07/03/2002