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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BNCH: CUTTACK

ORIGINAL APPLICATION NO.394 OF 2001
Cuttack this the 22nd day of July/2002

Trilochan Panda & 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 ? Yes.


Manoranjan Mohanty
22/07/2002

(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO.394 OF 2001
Cuttack this the 22nd day of July/2002

CORAM:

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

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1. Trilechan Panda, aged 33 years, Son of Chandramani Panda, At-Alishabazar, Dagarpada, Stoney road, Cuttack - at present working as Casual Labour at the office of the Station Engineer, High Power T.V.Transmission, Tulsipur, Cuttack
2. Sri Sumant Raj, aged 30 years, Son of Rajkishore Raj, Alishabazar, Dagarpada, Stoney Road, Cuttack - at present working as Casual Labour at the office of the Station Engineer, High Power T.V.Transmission, Tulsipur, Cuttack

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Applicants

By the Advocates

M/s. S.K.Rath,
R.K.Parida,
B.K.Parida

-VERSUS-

1. Union of India represented by the Secretary, Ministry of Information and Broadcasting, New Delhi
2. Directorate-General, Doordarshan, Copernicus Marg, New Delhi
3. Station Director, Doordarshan Kendra, Bhubaneswar, Dist-Khurda
4. Station Engineer, High Power T.V.Transmission, Tulasipur, Cuttack

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Respondents

By the Advocates

Mr.J.K.Nayak, A.S.C.

ORDER (ORAL)

MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL) : Heard Shri S.K. Rath, Advocate for the Applicant and Shri J.K.Nayak, A.S.C. appearing for the Respondents.

Applicant No.1 was engaged as Helper on casual basis at High Power Television Transmission Centre at Cuttack from 21.6.1993. Applicant No.2 was engaged as Sweeper at the said High Power Transmission Centre from 1.9.1993. They continued to serve under the Respondents at the H.P.T. and filed the

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present O.A. on 17.8.2001, ^{by way of} seeking a direction to Respondents to regularises their services. It is alleged that no sooner notices in the present O.A. were received/served on the Respondents, the services of the Applicants were disengaged w.e.f. 18.9.2001. It has been alleged by the Applicants in the present case that although they were serving under the Respondents for more than 240 days, they were shown to have worked for less number of days than 240 days in the records. Apparently that was done to overreach the statutory requirement under the Industrial Dispute Act. It has also been alleged by the Applicant that for some time, their engagements were shown to be under contractors engaged by the Respondents; in order to overreach the statutory impediment.

While filing this Original Application under Section 19 of the Administrative Tribunals Act, 1985, the Applicants verymuch relied upon guidelines/scheme framed by the Respondents under Annexure-4 dated 10.9.1993; on examination of which it appears that the Applicants are really not covered by the said scheme. It is the case of the Advocate for the Applicants that this scheme under Annexure-4 dated 10.9.1993; being an ongoing one, the principles therein should be resorted to in order to regularise the services of the Applicants. ^{To} ~~the~~ this, learned Addl. Standing Counsel Shri J.K. Nayak drew my attention to ~~the~~ a recent judgment of the Hon'ble Supreme Court rendered in Civil Appeal No. 3168 of 2002 (arising out of SLP (Civil) No. 2224/2000) decided on 29.4.2002; which ^{goes to} shows that the Scheme in question (Annexure-4 dated 1.9.1993) is not an ongoing scheme for the Central Government offices.

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Having faced with the aforesaid situation, the learned counsel for the Applicant states that the Applicants having served the respondents, without any stigma for a period of about more than eight years, the Respondents should consider their cases for regularisation. Shri Rath for the Applicants has placed into service a decision of the Apex Court of India in the case of Hindustan Machine Tools and Ors vs. M.Rangareddy & Ors. (reported in AIR 2000 SC 3287) wherein the Apex Court directed the Company to frame the scheme for absorption of casual labours. It would be worthwhile to quote, as under, the relevant portion of the said decision for better reference,-

" Tested on the touchstones of the principles laid down in the decisions noted above and keeping in mind the mandate of the Constitution under Articles 38(I), 39(e) and 43, we are of the considered view that the directions issued by the High Court the appellants to frame a scheme for regularisation of services of the writ petitioners does not warrant interference. It goes without saying that the absorption of the casual workers in regular service will be the subject to the fulfilment of the conditions of eligibility qualifications with relaxation of the age prescribed under the rules."

In the aforesaid premises, the Respondents are hereby directed to give engagements to the Applicants, and when casual work shall be needed, by keeping in mind the experiences gathered by the Applicants under the Respondents. Respondents are further directed to frame a scheme in order to regularise the casually engaged persons, who could not be regularised under the scheme at Annexure-4 dated 10.9.1993, and provide necessary relief to the Applicants. While considering the cases of the Applicants for regularisation, the Department/ Respondents should give opportunities to the Applicants to substantiate that they were really engaged for 240 days

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in a calendar year between 1993-2001. The Respondents are free to adhere to the scheme dated 10.9.1993, mutatis mutandis, instead of going to draw up a fresh scheme, in respect of the Applicants.

This O.A. is accordingly disposed of. No costs.

Manoranjan Mohanty
22/07/2002
(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)

B.K.SAHOO//