

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 86 of 2003
Cuttack, this the 30th day of April, 2008

Janakilata Nayak & Another Applicants.
Versus
Union of India & Ors. Respondents

For instructions

1. Whether it be referred to the reporters or not?
2. Whether it be circulated to all the Benches of the CAT or not?

(C.R.MOHAPATRA)
MEMBER(ADMN.)

ad
(JUSTICE K.THANKAPPAN)
MEMBER(JUDL.)

24

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.86 of 2003
Cuttack, this the 30th day of April, 2008

C O R A M:

THE HON'BLE MR. JUSTICE K.THANKAPPAN, MEMBER(JUDICIAL)
A N D
THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (ADMN.)

Janakilata Nayak & Anr. Applicants.

Versus

Union of India & Ors. Respondents

(For Full details, see the enclosed cause title)

By legal practitioner: Mr. N.R.Rout, Counsel

By legal practitioner: Mr.U.B.Mohapatra,SSC

O R D E R

MR.JUSTICE K.THANKAPPAN, MEMBER(JUDL.):

1. 2(Two) Applicants have filed this Original Application with two prayers; firstly it is prayed for a direction to the Respondent Nos. 2&3 to regularize their services and secondly it is prayed that under the facts, circumstances and law this Tribunal may grant any other relief as deemed fit and proper.

2. When this OA came up for hearing on 26.04.2005, this Tribunal disposed of the OA by an *ex parte* order as neither the Learned Counsel nor the Applicants present in Court. However, this Tribunal finally disposed of the OA by issuing a direction to the Respondents "to continue to engage the Applicants, as before, whenever any work is available". As the



Applicants were not satisfied with the order of this Tribunal, they challenged the order before the Hon'ble High Court I WP (C) No. 8694 of 2005. The Hon'ble High Court of Orissa, after hearing Learned Counsel for both sides, set aside the *ex parte* order dated 26.04.2005 of this Tribunal and remitted the matter back to this Tribunal for fresh disposal.

3. This Tribunal heard the Learned Counsel for both sides and perused the documents produced including the judgment of the Hon'ble High Court dated 19.08.2005. The Applicants' claim is that as they were being engaged on daily wages by Navodaya Vidyalaya Samiti (in short 'NVS') from December, 1993 and their service particulars have been collected on 19.08.1996 by the Respondent No.3, they are entitled for regularization in service, in the light of OM dated 10th September, 1993 of the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, New Delhi by which a policy decision was initiated by the Government to follow the existing guidelines contained in the earlier OM dated 07.06.1988 regarding the question of grant of temporary status to the casual employees who are engaged and have rendered one year continuous service in Central

Government Offices other than Department of Telecom, Posts and Railways.

4. Though in the first counter filed, for and on behalf of the Respondents, signed by Respondent No.4 in the OA, denies the service particulars of applicants i.e. their continuous engagement, collection of service particulars during 1996, it is specifically admitted in the counter filed by Respondent No.5 regarding the above aspects as follows:

“3. That while working as such, a proposal was sent to the office of the Deputy Commissioner (Deputy Director), Bhopal in reply to his query regarding the details of the persons working on part-time/casual/daily wage basis in the Vidyalayas for consideration of regularization of their services. The said letter of the Deputy Director dated 19.08.1996 and copy of the reply of the principal, Jawahar Navodaya Vidyalaya, Hadgarh dated 27.08.1996 is annexed as Annex.R-5/1.

4. That on receipt of the proposals from the Principal of various Jawahar Navodaya Vidyalayas situated in the States of Orissa, and Madhya Pradesh, a consolidated proposal was sent to the Navodaya Vidyalaya Samiti H.Qrs, at New Delhi vide the Deputy Director's letter No. 3558 dated 05.11.86. Copy of the letter is annexed herewith as Annexure R-5/2. The said letter was sent by the Regional Office, Bhopal to the Samiti H. Qrs, New Delhi in reply to letter of the Head Office letter dated 13.08.96.

5. That though there was an order on 29.03.2004 to consider the case of persons appointed on contract basis for their regularization, if they have been appointed against any sanctioned post, the cases of the applicants could not be considered since they were not engaged against any sanctioned post of the respective category. This provision was made available to the daily wage/part-time and ad-hoc appointees also. Copy of the order dated 29.03.2004 is annexed here as Annexure R-5/3. However, no decision has yet been taken for creation of additional posts for consideration of regularization of

the applicants and similarly placed persons working in Jawahar Navodaya Vidyalaya, Hadgarh and other Vidyalayas of Navodaya Vidyalaya Samiti. Whenever the posts will be created if the said Vidyalaya, the cases of the applicants will be considered as per the recruitment rules with due preference to their experience. Copy of the letter dated 25.1.06 of Navodaya Vidyalaya Samiti H.Qrs., New Delhi is annexed here as Annexure-R-5/4."

5. In the light of the above statements contained in the counter, this Tribunal is of the view that the NVS has considered the OM dated 10.09.1993 of the Government of India Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, New Delhi regarding conferring of the temporary status to the casual labours working in different Vidyalayas under NVS but no decision has been taken regarding regularization of the services or conferment of temporary status on such casual employees. Nevertheless, it is admitted in the counter that as and when additional posts are created the cases of applicants and similarly placed employees would be considered and at this stage as the Samiti has not decided to take any decision in the matter the samiti was not in a position to regularize the services of the Applicants.

6. In the light of the statements made in paragraphs 3,4 and 5 of the counter filed by the Respondents, this Tribunal is of the view that question of regularization of the services of applicants does not arise at this stage and hence the first question is answered accordingly. However, there

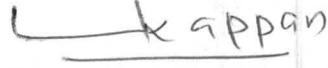


will be a direction to the NVS/Respondents to consider the cases of Applicants for regularization, as and when additional posts are created, as averred in the counter filed by the Respondents.

With regard to the second prayer of the Applicants, it is admitted in the counter filed by the Respondents that as and when work is available Applicants will be engaged, as before. If so, there will be a further direction that as and when work is available, the Samiti shall engage the Applicants, as before, without fail.

7. With the aforesaid observations and directions, this OA stands disposed of by leaving the parties to bear their own costs.


(C.R.MOHAPATRA)
MEMBER(ADMN.)


(JUSTICE K.THANKAPPAN)
MEMBER(JUDL.)

KNM/PS.