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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 946 of 2004
Cuttack, this the 28th day of May, 2008

Susama Dei @ Bailata Dei Applicants
-Versus-
Union of India & Ors. Respondents.

FOR INSTRUCTIONS

1. WHETHER it be sent to reporters or not?
2. WHETHER it be circulated to all the Benches of the Tribunal or not?

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

K. a. ppam
(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

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C O R A M:-

THE HON'BLE MR. JUSTICE K.THANKAPPAN, MEMBER(J)
AND
THE HON'BLE MR. C.R.MOHAPATRA, MEMBER(ADMN.)

Susama Dei @ Bailata Dei Applicants
-Versus-
Union of India & Ors. Respondents.

(For Full details, see the enclosed cause title)

By legal practitioner: Mr.S.S.Swain, Counsel.
By legal practitioner: Mr.U.B.Mohapatra, SSC.

O R D E R

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

The Applicant approached this Tribunal in more than one occasions by filing three different Original Applications including the present one. In all the occasions, it was her case that since she was working as Casual Labour from 11.01.1989 to 28.10.1989 under the Respondent No.2 (Director-in-Charge, Central Poultry Breeding Farm presently known as Central Poultry Development Organization, Bhubaneswar) and as some of the temporary casual labourers were regularized by



the Respondents, she has illegally been deprived of the same benefits of regularization or engagement. This Tribunal after taking into consideration all relevant facts adduced by the Applicant in Original Application No. 83 of 1992 had held in its order dated 05.08.1993 that there is no legal ground for the applicant to have a direction for regularization of her engagement in the office of Respondent No.2. However in the above order, this Tribunal observed as under:

“We do appreciate the financial difficulties through which this poor lady has been passing. But at the same time we cannot shut our eyes to the administrative difficulties. Question of regularization does not arise till a regular post is available. Whenever, regular post is available, the authority may consider the case of the petitioner for regular appointment but pending such regularization, Opposite Party No.2 (Director, Central Poultry Breeding Firm, Bhubaneswar) and Opposite Party No.3 (Superintendent, Random Sample Poultry Performance Testing Centre, Bhubaneswar) are directed to engage the petitioner on casual basis according to the availability of work on their office. First preference should be given to this lady to employ her as casual labourer, whatever, work is available.”




2. In the light of the above observations, when the Applicant approached the authorities, no casual work given to her and the request of applicant for her engagement on casual basis was rejected by the Respondents. However, Applicant further filed O.A.No. 230 of 1995 on the same prayer of regularization of her engagement as casual labour. This Tribunal considered the prayer of the Applicant, made in the aforesaid OA, elaborately and extensively and finally in its order dated 8th December, 1997, this Tribunal after taking support of two decisions of the Apex Court, in the cases of State of Harayana and others v Piara Singh and Others etc., AIR 1992 SC 2130 and State of Himachal Pradesh v Suresh Kumar Verma and another, AIR 1996 SC 1565 rejected the claim of the Applicant. It is also seen that the Applicant had approached the Central Government Industrial Tribunal-Cum-Labour Court, Bhubaneswar by filing Industrial Dispute Case claiming regularization of her engagement under the Respondents. That dispute was also decided against her holding that the farm in

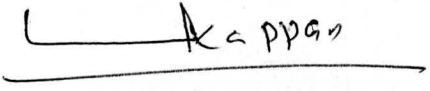
which the Applicant was working does not come under the definition of Industry and so the provision of Industrial Dispute ~~does~~^{is} not applicable to the case. In the present Original Application, the Applicant has prayed for direction to the Respondents to engage her on casual basis, conferment temporary status on her and to regularize her in service.

3. We have given our anxious thought to various arguments advanced by the parties and perused the documents placed on record including the orders passed by this Tribunal in earlier OAs. It is the case of Applicant that she belongs to a particular community for which she requires preferential treatment; especially by taking into consideration of her past engagement with the kind grace and sympathy of Respondent No.2 from 11.01.1989 to 28.10.1989. That by itself is not a legal ground to hold that the Applicant is entitled to the relief now claimed. The counter affidavit filed for and on behalf of the Respondents discloses that the Respondent No.2 is offering piecemeal work to her as and when work is available in the

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Department still then the applicant is of the view that the Respondents are keeping animosity towards her. It is also seen that the Applicant has made representations to the SC/ST Commissioner of the Government of India against Respondent No.2. Whatever be the course of action of that Applicant, this Tribunal is not concerned except with the legal points, if any, raised in this O.A. Hence in considering all legal aspects/grounds raised by applicant, we are of the view that the OA is devoid of any merit. However, this Tribunal is of the considered view that as and when any contractual or seasonal engagement is necessitated in the Department, the Applicant may be given chance to have some help from the Department.

4. Except what has been observed above, we find no merit in this O.A. which stands dismissed by leaving the parties to bear their own costs.


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


(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)

KNM/PS.