

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 793 of 2005
Cuttack, this the 28th day of June, 2007.

Harichandra Das Applicant
Versus
Union of India & Others Respondents

FOR INSTRUCTIONS

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

[Signature]
(B.B. Mishra)
MEMBER (A)

12 ✓
CENTRAL ADMINISTRATIVE TRIBUNAL

CUTTACK BENCH, CUTTACK

O.A.NO.793 OF 2005
THIS IS THE 28th DAY OF , 2007)

CORAM:

HON'BLE SHRI B.B.MISHRA, ADMINISTRATIVE MEMBER

In the matter of:

Harichandra Das, aged about 39 years, son of Debendra Chandra Das, a permanent resident of Village-Sainsa (Nakuleswar Nagar), Post -Gaba Basta, Via-Phulnakhara, P.S.-Sadar, District-Cuttack, presently serving as Lift Operator in the Income Tax and Central Excise Revenue Building, Rajaswa Vihar, Vani Vihar, Bhubaneswar, Khurda.

.....Applicant

Advocate for the Applicant: M/s. S.S.Mohapatra,

J.Sengupta

Versus:

1. Union of India, represented through its Secretary to Govt. of India, Ministry of Urban & Housing Development Department, Lodhi Road, New Delhi-1.
2. Director General (Works), CPWD, Nirman Bhawan, New Delhi 110001.
3. Chief Engineer (Electrical) E.Z. CPWD, Nizam Palace, 234/9, A.J.C. Bose Road, Calcutta-20.
4. Superisntendent Engineer (Elect.) Eastern Zone, CPWD, Nizam Palace, 234/9, A.J.C. Bose Road, Calcutta-20.
5. Executive Engineer (electrical), Bhubaneswar, CPWD, Central Elect. Division, Plot No. 3-A, Unit-VIII, Bhubaneswar.
6. Assistant Engineer, Bhubaneswar, Central electrical Sub-Division-II, CPWD Plot No. 3-A, Unit -VIII, Bhubaneswar.

.....Respondents

Advocates for the RespondentsMr. S.B. Jena

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ORDER

MR. B.B.MISHRA, MEMBER(A):

Applicant, was being engaged through a contractor, discharging the duties of Lift Operator in the Income Tax & Central Excise Revenue Building, Rajaswa Vihar, Bhubaneswar. It is his case that though he has continuously been discharging the duties of Lift Operator since 1.6.1990 neither he has been conferred with the temporary status nor regularized although the said benefits have been given to other similarly situated employees.

2. Respondents in their counter have stated that the applicant is not entitled to conferment of temporary status/regularization in Group D post since he was engaged on contract basis for operation of lift operator which is Group C post. It has been maintained that he has been awarded work on contract basis through contractor for operation of lift on the Income Tax Building Bhubaneswar. He can not be said to be an employee engaged by the Respondents either on casual or ad-hoc basis. In paragraph 6 it has been stated that prior to December, 99 work order was given to Applicant and thereafter since December, 99 tender has

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been awarded to M/s. Jagannath Enterprise, Bhubaneswar. On the above grounds, the Respondents have opposed the prayer of the Applicant.

3. Heard Learned Counsel for both sides. Learned Counsel for both sides reiterated the stand taken in the pleadings in support of their prayers which are not necessary to be dealt with. From Annexure-A/1 it reveals that the applicant was engaged from 1.6.90 to 30.11.1990 on a monthly remuneration of Rs.1000/-. From enclosure to Annexure-A/2 it reveals that he has been working since 1.6.1990 to 31.12.1999 at different spells covering the period of six months to one year in a particular year. It has been admitted by the Respondents in their counter at paragraph 6 that the applicant was given the work order directly and not through any contractor prior to December, 99. The period of engagement of the applicant is not in dispute nor it is the case of the Respondents that he was awarded the work after floating the tender etc. as has been done after December, 99. It is also the specific case of the Applicant that similarly placed employees have been given the benefits of the scheme under Annexure-A/2 whereas he has been deprived of. This plea of the Respondents has not been controverted by the Respondents either in their counter or during oral hearing. Therefore, there is no

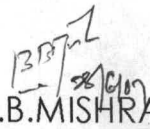
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hesitation to hold that the engagement of applicant prior to December, 1999 was on casual basis and, therefore, he is entitled to the benefits of the scheme of the Government of India under Annexure-A/2.

4. In the light of the discussions made above, the Respondents are hereby directed to examine the case of Applicant for conferment of benefits available under Annexure-A/2 and grant of other consequential relief as per Rules/Law within a period of 90 days from the date of receipt of copy of this order.

5. With the above observations and directions this OA is disposed of. No costs,


(B.B.MISHRA)
Member(Admn.)