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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

O.A.NO.187 of 2006
Cuttack, this the *1st* day of *July* 2009

Prahallad Chandra Sahoo Applicant

Vrs.
Union of India and others Respondents

FOR INSTRUCTIONS

- 1) Whether it be referred to the Reporters or not?
- 2) Whether it be sent to the P.B., CAT, or not?


(C.R. MOHAPATRA)
ADMINISTRATIVE MEMBER


(K. THANKAPPAN)
JUDICIAL MEMBER

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.187 OF 2006

Cuttack this the 1st day of July 2009

CORAM:

HON'BLE SHRI JUSTICE K.THANKAPPAN, JUDICIAL MEMBER

AND

HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER

...

Prahallad Chandra Sahoo, aged about 45 years, S/o. Dama Sahgo, Vill/PO-Somapur Benahar, Via-Borikina, Dist-Jagatsinghpur – continuing as Casual Floor Assistant at Doordarshan Kendra, Bhubaneswar, Dist: Khurda

...Applicant

By the Advocates: M/s.K.C.Kanungo, S.Bastia & S.Pattnaik

-VERSUS-

1. Union of India represented through the Secretary to Govt. of India in Ministry of Information & Broadcasting, At/PO-Shastri Bhavan, New Delhi
2. Director General, Doordarshan, At-Copernicus Marg, Mandi House, New Delhi
3. Director of Doordarshan Kendra, Bhubaneswar, At-Sainik School, PO-Chandrasekharapur, Bhubaneswar
4. Chief Executive, Prasar Bharati Board, Prasar Bhaati (BCI), Doordarshan Bhawan, Mandi House, Copernicus Marg, New Delhi

...Respondents

By the Advocates: Mr.R.N.Mishra, A.S.C.

...

ORDER

JUSTICE K.THANKAPPAN, JUDICIAL MEMBER:

1. In this Original Application under Section 19 of the Administrative Tribunals Act, 1985, the applicant, who is working as Floor Assistant on

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casual basis in Doordarshan Kendra, Bhubaneswar, has prayed for the following relief:

- a) The Original Application be allowed
- b) The Respondents be directed to regularize the services of the applicant as Floor Assistant against the regular vacant post as per the Scheme prepared by Central Government vide letter dt. 17.3.1994 under Annexure-A/5
- c) The Respondents be directed to release all consequential service benefits to the applicant
- d) Such other order/orders be passed granting complete relief to the applicant.

2. The facts leading to filing of this O.A., according to applicant, are that he was engaged as Floor Assistant on casual basis in the year 1988. As it reveals from Annexure-A/4 dated 27.4.1992 the applicant had been offered with contracts for assignment in some programme and in view of such type of assignment, he was asked to fill up certain forms, which are stated to have been submitted by him to the Department. The applicant was also asked to furnish some certificates/testimonials, which he had submitted as revealed from Annexure-A/8 dated 4.2.2003. As per Annexure-A/9 dated 30.1.2003, the applicant is declared eligible casual Floor Assistant in the year 1995. In the above background, his service having not been regularized, he has approached this Tribunal with the prayer referred to above.

3. The Respondents have filed their counter resisting the prayer of the applicant. They have submitted that steps are being taken to regularize all

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eligible Floor Assistants including the applicant in accordance with the availability of vacancy having due regard to rules/instructions/reservation roster as applicable. As regards grant of Temporary Status to the applicant, the Respondents have submitted that it is only applicable to Group D eligible employees (Casual Labourers). They have, therefore, submitted that the O.A. being devoid of merit is liable to be dismissed.

4. We have heard Shri K.C.Kanungo, learned counsel for the applicant and Shri R.N.Mishra, learned Addl.Standing Counsel for the Respondents and perused the materials on record.

5. At the out set, we cannot but agree with the statement made by the Respondents in their counter reply that the applicant could only be regularized as against a regular vacancy when so arises. In other words, there being no regular vacancy, the service of the applicant cannot be regularized. But the fact remains that the applicant has been declared eligible casual Floor Assistant since 1995 and in the meantime, he has already rendered 13/14 years service as such. In the circumstances, existence of permanent nature of work for continuous engagement of the applicant cannot be brushed aside. In this context, it would be profitable to quote hereunder the relevant portion of the observations of the Hon'ble Supreme Court in State of Haryana and others v. Piara Singh and others, AIR 1992 SC 2130:

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“...If a casual labourer is continued for a fairly long spell – say two or three years – a presumption may arise that there is regular need for his services. In such a situation, it becomes obligatory for the authority concerned to examine the feasibility of his regularization”.

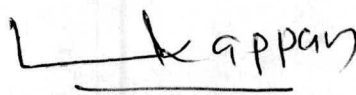
6. Further it has been held by the Hon'ble Supreme Court that “where a temporary or ad hoc appointment is continued for long, the Court presumes that there is need and warrant for a regular post and accordingly directs regularization”.

7. Having regard to what has been discussed above, we would direct the Respondents to explore all possibilities of getting regular posts of Floor Assistants sanctioned, against which the applicant and other similarly situated persons could be accommodated in accordance with the Scheme of Regularization as set out in that behalf, keeping in view their long standing casual service to the Department.

8. With the above observation and direction, this O.A. is disposed of.

No costs.


(C.R. MOHAPATRA)
ADMINISTRATIVE MEMBER


(K. THANKAPPAN)
JUDICIAL MEMBER