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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

O.A.NO. 48 OF 2002
Cuttack, this the 5th Aug. 2003

Shri Ashok Kumar Satpathy

Applicant

Vs.


Union of India and others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? uo
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? uo


(M.R. MOHANTY)
MEMBER (JUDICIAL)

05/08/2003


(B.N. SOM)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

O.A.NO. 48 OF 2002,
Cuttack, this the 5th day of Aug 2003

CORAM:

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI M.R.MOHANTY, MEMBER(JUDICIAL)

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Shri Ashok Kumar Satpathy, aged about 28 years, son of Sri
Kulamani Satpathy, N/6-96, IRC Village, Bhubaneswar 751 015,
Dist. Khurda

..... Applicant

Advocate for the Applicant – Mr.G.B.Jena.

Vr.

1. Union of India, represented by the Secretary, Department of Environment & Forest, CGO Complex, Lodhi Road, New Delhi-110 003.
2. Director, National Museum of Natural History, FICCI Museum Building, Barkhamba Road, New Delhi- 110 001.
3. Administrative Officer, National Museum of Natural History, FICCI Museum Building, Barkhamba Road, New Delhi-110 001.
4. Scientist-in-charge, Regional Museum of Natural History, Regional Research Laboratory, Bhubaneswar- 751013.

..... Respondents.

Advocate for the Respondents - Mr.A.K. Bose,
Sr. CGSC

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ORDER

SHRI B.N.SOM, VICE-CHAIRMAN

This Original Application has been filed by Shri A.K.Satpathy under Section 19 of the Administrative Tribunals Act, 1985, assailing the decision of the Respondents not to engage him on daily wage basis after 30.9.2000. The applicant has claimed that he had worked continuously for a period of 240 days in a calendar year and therefore, he is entitled to conferment of temporary status and has approached the Tribunal to direct the Respondents to confer the said status on him and give him all such other benefits, as admissible under the Scheme of 1993 framed by Government of India.

2. In a nutshell, the facts of the case are as follows. According to the applicant, he was engaged on daily wage basis from 4.2.1997 to 30.9.2000 in six spells of 178 days, 160 days, 181 days, 184 days, 182 days and 183 days. He has alleged that he had submitted a representation to Respondent No.2 on 25.9.2000 for grant of temporary status and regularization of his job. His allegation is that Respondent No.3 by misrepresenting the facts, did not recommend his case to the authorities for regularization and thereby has violated the instructions contained in the Office Memorandum of the Department of Personnel and Training dated 10.9.1993. He has further

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submitted that the Principal Bench of the Tribunal having held that the scheme of the Government of India regarding regularization of casual labourers is an on-going scheme and not a one time concession, the Respondents should have granted temporary status to the applicant and considered him for regularization against Group D post, instead of disengaging him.

3. The Respondents have contested the Original Application by filing counter. The Respondents have denied that the services of the applicant were extended as LDC-cum-Typist. In fact, they stated, his services were utilized on daily wage basis for different types of work. They have, however, admitted that he was engaged on daily wage basis in six spells from 4.2.1997 to 30.9.2000, with the period of break extending from a minimum of 7 days to a maximum of 31 days. They have firmly denied that the applicant was in any way eligible for grant of temporary status in terms of the Department of Personnel & Training Office Memorandum dated 10.9.1993, because the said scheme was applicable only to those casual labourers who were in employment under the Ministries/Departments of Government of India and their attached and subordinate offices as on 1.9.1993. Admittedly, the applicant not being in employment/engagement of the Respondents on the date of issue of that scheme, they have submitted, the request of the applicant is devoid of any merit.

4. The applicant has filed rejoinder to the counter of the Respondents.

5. We have heard the counsels for both the parties and have also perused the records placed before us.

6. The applicant in his Original Application has prayed that the Tribunal should direct the Respondents to confer temporary status on him because he had worked continuously for a period of 240 days in a calendar year. The Respondents have denied that he was ever engaged for 240 days in a calendar year. They have also submitted that the applicant is not covered by the Scheme of 1993 for conferment of temporary status because the said Scheme is a one time scheme and not an on-going one. We have perused the records to ascertain whether the applicant had worked for 240 days in any year. The Respondents, vide Annexure 11, have submitted the details of engagement of the applicant during the period from 4.2.1999 to 30.9.2000. From this statement it does not appear that he was engaged for 240 days either during 1997, or 1998, or 1999 or 2000. The applicant has also not been able to show us that he was engaged continuously for 240 days in any ^{year}. In fact, in paragraph 4.9 of his Original Application, he has given the details of engagement on daily wage basis where he has submitted that he was engaged for a period of 160 days to a maximum of 184 days during the period from February 1997 to September 2000 which tally with the averments made by the Respondents. Secondly, as rightly pointed out by the Respondents, there is no applicability of the scheme framed by the Government of India for granting temporary status to the casual labourers and their regularization after September 1993. This

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Scheme is applicable only in respect of these casual labourers who were in employment on 01.09.1993 in Govt. Ministries/Departments and had been engaged for 240 days during one year preceeding the scheme coming into force. But in this case the Applicant was engaged for the first time only in 1997 and therefore, he is not in any way covered by the Scheme. That this scheme is not an ongoing one has already been decided by the Apex Court in the case of Union of India v. Mohan Pal, 2002 AIR SCW 2040.

7. While parting with this case of the Applicant, we would like to observe that as he had been engaged as a casual worker in 1997 and had worked in the Respondents' organisation so long, he may be considered for further employment/engagement, as and when any job will be available for engaging a casual hand or consider his engagement on contractual basis depending on his level of skill and expertise .

8. In view of the law position as stated above, and the facts of the case, we see no merit in this Original Application and therefore, we reject the same being misconceived. No costs.

(MANORANJAN MOHANTY) 05/08/2003
MEMBER (JUDICIAL)

(B.N. SOM)
VICE- CHAIRMAN