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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

O.A.NO. 49 OF 2002
Cuttack, this the 5th Aug 2003

Gangadhar Das Applicant

Vs.

Union of India and others Respondents

FOR INSTRUCTIONS

3. Whether it be referred to the Reporters or not? *Yes*
4. Whether it be circulated to all the Benches of the Central
Administrative Tribunal or not? *Yes*

[Signature]
(M.R. MOHANTY)
MEMBER (JUDICIAL)

05/08/2003

[Signature]
(B.N. SOM)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

O.A.NO. 49 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)

.....

Gangadhar Das, aged about 26 years, S/o. Late Brundaban Das of
Vill/P.O. Subhadua, Via. Ganteswar, Dist. Bhadrak

..... 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

.....

SHRI B.N.SOM, VICE-CHAIRMAN

This Original Application has been filed by Shri Gangadhar Das 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 initially engaged as Driver on daily wage basis from 1.11.1997 and thereafter as Vehicle Attendant on daily wage basis from 7.1.1998 and his such engagement continued up to 30.9.2000 in five spells of 304 days, 181 days, 184 days, 182 days and 183 days. He has alleged that he had submitted a representation to Respondent No.2 on 25.7.2000 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 Vehicle Attendant. 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 five spells from 1.11.1997 to 30.9.2000 with breaks. 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 learned counsels for both the parties and have also perused the records placed before us.

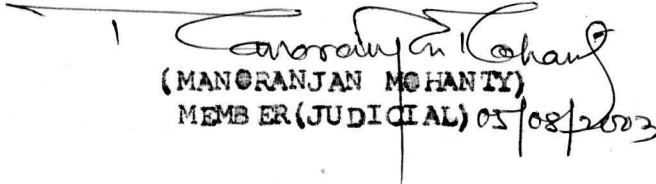
6. The applicant in his Original Application has prayed that the Tribunal should direct the Respondents to confer temporary status on him because he had worked continuously for a period of 240 days in a calendar year. They have also submitted that the applicant is not covered by the Scheme of 1993 for conferment of temporary status because the said Scheme is a one time scheme and not an on-going one. 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 thereafter. This scheme is applicable only in respect of those casual labourers who were in employment on 1.9.1993 in Government Ministries/Departments and had been engaged for 240 days continuously during one year preceding 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. In view of this settled position of law and the fact that the applicant was initially engaged on daily wage basis


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in 1997, the contention of the applicant that he had worked for 240 days in a calendar year does not improve his case.

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

8. While parting with this case, it is to be noted here that since there is a post of Driver in the Regional Museum of Natural History, Bhubaneswar and since the Applicant was initially taken through the Employment Exchange, the Respondents may consider his engagement on contractual basis subject to his fulfilment of other conditions.


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


(B. N. SENGUPTA)
VICE-CHAIRMAN