

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

O.A.NO.449 of 2007
Cuttack, this the 1st day of July 2009

Fakir Charan Nayak

.....

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?



(K.THANKAPPAN)
JUDICIAL MEMBER

12

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.449 OF 2007

Cuttack this the 1st day of July 2009
CORAM:

HON'BLE SHRI JUSTICE K.THANKAPPAN, JUDICIAL MEMBER

...

Fakir Charan Nayak, aged about 38 years, S/o. late Birabhadra
Nayak, At/PO-Barunadiha, PS-Rajkanika, District-Kendrapara

...Applicant

By the Advocates: M/s.D.P.Dhalasamant & P.K.Behera

-VERSUS-

1. Union of India represented through its Secretary, Information & Broadcasting, Sastri Bhawan, New Delhi-110 001
2. Director General, Doordarshan, Copernicus Marg, Mandi House, New Delhi-110 001
3. Director, Doordarshan Kendra, PO-Sainik School, Bhubaneswar-5, District-Khurda
4. Superintending Engineer, Doordarshan Kendra, PO-Sainik School, Bhubaneswar-5, District-Khurda
5. Station Engineer, Balasore, At/PO/Dist-Balasore

...Respondents

By the Advocates: Mr.S.Behera, A.S.C.

...
ORDER

SHRI JUSTICE K.THANKAPPAN, JUDICIAL MEMBER:

1. Heard Shri D.P.Dhalasamant, learned counsel for the applicant and Shri S.Behera, learned Additional Standing Counsel for the Respondents and perused the documents annexed to the O.A.



13

2

2. Admittedly, the applicant had been selected to the post of Helper under the Respondent-Department through a regular process of selection and although all formalities for such appointment were completed, but the applicant could not be appointed as there existed two vacancies at that point of time and the panel containing his name at Sl.No.6 became ineffective after one year. It is also an admitted fact that the applicant has been continuing as casual Helper/Watchman purely on contract basis since 1995. Although the Respondents have submitted that the applicant being a contractual employee is not entitled to regularization, but at the same time, it is to be borne in mind that the applicant with the status as such has been working under the Respondents since last 13/14 years and in the circumstances, the only inference that could be drawn is that there exists work for continuous engagement of the applicant. 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:

“...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”.

3. 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”.

4. Having regard to what has been discussed above, I direct the Respondents to explore all possibilities of getting a regular post of Helper/Watchman for L.T.P., Kendrapara, sanctioned, against which, keeping in view his long standing casual service as Helper/Watchman purely on contract basis to the Department and also the fact that he had been selected for the post of Helper through a regular process of selection, but could not be appointed due to dearth of vacancy, the applicant could be accommodated.

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

No costs.

L. K. appan
(K.THANKAPPAN)
JUDICIAL MEMBER