

14
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

OA No. 564 of 2010

Cuttack, this the 10th day of August, 2012

Narayan Chandra Sethy ... Applicant
Versus
Unon of India & Ors. ... Respondents

ORDER

CORAM

THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (ADMN.)

.....

Alleging non consideration of his grievance as raised in representation dated 26.11.2008 for conferment of temporary status followed by regularization, in pursuance of the DOP&T instruction dated 10.09.1993, the Applicant had earlier approached this Tribunal in OA No.187 of 2009. The said Original Application [187/2009] was disposed of on 21-07-2009 by calling upon the Respondents to dispose of the pending representation dated 26.11.2008 in a well reasoned order, within a period of three months. Respondents rejected the request of the applicant on the ground that his case did not come within the purview of the DOP&T instruction dated 10-09-1993 as he was neither in engagement on 1.9.1993 nor prior to that date. He was engaged in the

2

Department only w.e.f. 1.8.1995. Hence this OA with the following prayers:

“8.1. That the impugned speaking order vide Annexure-A/10 passed by the Respondent No.2 is otherwise bad in law, illegal and improper and the same may kindly be set aside;

8.2. That further be pleased to pass necessary direction to the competent authority i.e. Respondent No.2 to regularize the service of the applicant in the post of Helper at Dasarathpur LPT under DDMC, Balasore;

8.3. That further be pleased to pass any other order/order(s) as deemed fit and proper to give complete relief to the Applicant.”

2. The Respondents contest the case of the Applicant by stating that the applicant was initially engaged in 1995 i.e. much after the Scheme of 1993. The scheme of DOP&T clearly provides that temporary status would be conferred on those casual laboruers who are in engagement as on 01.09.1993. As the applicant was not in engagement on the said date, his request was rightly rejected. Further it has been stated by the Respondents that the initial engagement of the applicant was not through due process of selection nor against any sanctioned post, hence, he cannot be regularized. The next contention of the Respondents is that the continuance of the applicant was purely on contractual basis

to meet the day to day need of LPT Balasore. Hence, he is not entitled to the relief claimed in this OA.

3. Heard Mrs.Padhi, Learned Counsel for the Applicant and Mr.S.B.Jena, Learned ASC appearing for the Respondent-Department and perused the record. In similar matters in OA No. 556 and 565 of 2010 (Benudhar Singha & another Vrs Union of India and others) the Tribunal having come across with similar facts and circumstances and the pleadings of the parties came to the conclusion that the ratio decided in the case of **State of Karnataka Vs Uma Devi**, AIR 2006 SC 1806 is applicable to the case of the applicant. In the fitness of things the relevant portion of the order in OA No. 556 of 2010 disposed of on 07-08-2012 is extracted herein below:

“4. Having considered the arguments advanced by respective parties, I have no hesitation to hold that rejection of the grievance of applicant for conferment of temporary status as per DOP&T Scheme, 1993 is not unjustified as the scheme was a one time measure and not ongoing. But I find some force in the contention of the Learned Counsel for the Applicant that as the applicant has been undisputedly continuing to discharge duty on casual basis without any order of the Tribunal/ Court since 1999, his case would merit consideration for regularization by the Respondents as per the decision of the Hon’ble



Apex Court in the case of State of Karnataka (supra). In this regard, relevant portion of the decision of the Hon'ble Apex Court is extracted herein below:

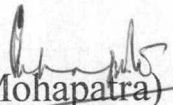
"53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V. Narayanappa, R.N. Nanjundappa and B.N. Nagarajan and referred to in para 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of the courts or of tribunals. The question of regularization of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularise as a one-time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. (Emphasis supplied)

5. For the reasons discussed above, I am of the considered opinion that the case of the applicant for regularization needs sympathetic consideration in the light of the decision of the Hon'ble Apex Court quoted above. Accordingly, the Respondents are hereby directed to consider

L

the grievance of the applicant in the light of the decision of State of Karnataka (supra) within a period of 60 days from the date of receipt of copy of this order. With the aforesaid observation and direction this OA stands disposed of. There shall be no order as to costs. “

In view of the above, I am not inclined to make any departure from the view already taken in the above referred OAs in so far as the present applicant is concerned. Accordingly, the Respondents are hereby directed to consider the grievance of the applicant in the light of the decision of the Hon'ble Apex Court in the case of Uma Devi (supra) within a period of 60 days from the date of receipt of copy of this order. With the aforesaid observation and direction this OA stands disposed of. There shall be no order as to costs.


(C.R. Mohapatra)
Member (Admn.)