

18

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.631 OF 2010

Cuttack this the 3rd day of July, 2012

Bharat Chandra Das Applicant

Versus

Union of India & Ors. Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not?
2. Whether it be sent to PB for circulation?

(C.R.MOHAPATRA)
Member (Admn.)

Al
(A.K.PATNAIK)
Member (Judl.)

101
**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO.631 OF 2010
 Cuttack this the 20th day of July, 2012

CORAM:

HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER
 AND
 HON'BLE SHRI A.K.PATNAIK, JUDICIAL MEMBER

Bharat Chandra Das, aged about 46 years, Son of Lokanath Das, At/PO-Tulasipur, Dist-Cuttack – at present working as Group-D employee of Casual Helper with Temporary Status, At-D.D.K.Bhubaneswar

...Applicant
 By the Advocates:M/s.S.K.Ojha & S.K.Nayak, Counsel
 -VERSUS-

1. Union of India represented through its Director General, Doordarshan, Copernicus Marg, Mandi House, New Delhi-110 001
2. Prasar Bharati Broadcasting Corporation, Doordarshan Kendra, represented through Managing Director, Copernicus Marg, Mandi House, New Delhi
3. Director, Doordarshan Kendra, Sainik School, Bhubaneswar, Dist-Khurda
4. Chief engineer, Prasar Bharati Broadcasting Corporation of India office of the Chief engineer (East Zone), All India Radio & Doordarshan, Akashvani Bhavan, Kolkata

...Respondents
 By the Advocate: Mr.S.Barik A.S.C (Central Govt.)

...
O R D E R

A.K.PATNAIK, MEMBER(J): In this Original Application filed under Section 19 of the A.T.Act, 1985, the applicant has sought for the following relief.

“...to direct the Respondents particularly Respondent No.1 to regularize the services of the applicant as Helper against the vacancy available under Annexure-A/7.

(A)

And further to direct the Respondents to regularize/to make all out efforts to regularize the services of the applicant against the vacancy available in other Kendras of East Zone under Annexure-A/4.

And further to direct the Respondents not to dispose with the service of the applicant till due consideration is received with regard to regularization against the vacancy available at DDK, Bhubaneswar".

2. Facts of the case in brief are that the applicant is working as a Group-D employee/ Casual Helper with Temporary Status under the Respondents-Department. Earlier he had moved this Tribunal in O.A.No.275 OF 2009, which was disposed of vide order dated 24.08.2009 with the following terms:

"Accordingly, the applicant is directed to file representation within 15 days and if such a representation is filed, Respondent No.1 is directed to consider and dispose of the same with a reasoned order within a period of 60 days thereafter.

3. In the above background, as it reveals from the record, the Respondents disposed of the representation dated 4.9.2009 the relevant portion of which reads as under:

"The representation has been considered by the competent authority in this Directorate and he finds that regularization of Casual Labourers with temporary Status in accordance with DoP&T Scheme, 1993 was kept in abeyance in the light of Hon'ble Supreme Court's Judgment in the case of State of Karnataka vs. Umadevi and others. Later on as per advice of Additional Solicitor General of India in the matter, a consolidated proposal with certain procedural modification of the Scheme of

21

1993 to take up regularization is under submission for approval of the Competent Authority.

In the circumstances stated above the competent authority has come to the conclusion that regularization of Shri Bharat Chandra Das, Casual Worker cannot be taken for the present and will be considered after getting the approval of the Competent Authority, which is hereby communicated to Shri Bharat Chandra Das".

4. In addition to the above, the Respondents, in their counter have stated that as per DoP&T instructions, a Temporary Status worker could be regularized only at the place where he has been initially engaged. Since the Kendra has not adequate number of vacancies to regularize all the Temporary Status casual labourers, the Department has evolved a Scheme to allow filling up the vacancies available at other Kendras including LPT, HPTs, DMCs. According to the Respondents, the above said proposal is under submission to Prasar Bharati Board and only after it is cleared by the Board, the same would be forwarded to Ministry of I & B to consider and obtain approval of the DOP&T, in order to take subsequent follow up action.

5. We have heard Shri S.K.Ojha, learned counsel for the applicant and Shri S.Barik, learned Addl. Standing Counsel appearing on behalf of the Respondents and perused the materials on record.

6. From the pleadings of the parties, the fact that the applicant is a Temporary Status Casual Labourer is not in dispute. By *Ad*

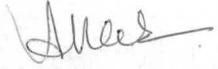
posting the applicant has expressed his inclination for being posted anywhere in Orissa, in case of his regularization in service.

7. We have considered the submissions made by the learned counsel for the parties. Although there is no specific denial for the regularization of the applicant, but, the Respondents have not made it clear as to the status at which the proposed scheme for regularization now stands and/or when it would receive the approval of DoP&T notwithstanding the fact that the entire matter is converged with Respondent No.1. There is also not a single word whispered on behalf of Respondent No.2 regarding the fate of the casual labourers with Temporary Status who have been working in the Department since decades together, albeit, it is the view point of the Respondents that the applicant will be considered for regularization when his turn comes and vacancy is available at DDK, Bhubaneswar. This submission of the Respondents is insignificant in view of the fact that the proposed scheme for regularization is shrouded with uncertainty. Hence unless and until the said scheme receives the approval of the DoP&T, as stated in the counter, no regularization of the casual labourer with Temporary Status can be made. At the same time, the Tribunal, while taking judicial notice of the entire stock of the facts and circumstances, cannot act as mute spectator thereby allowing the Respondents to sleep over the matter indefinitely. 

8. In this view of the matter and particularly, taking into consideration the long period of service rendered by the applicant as a Casual Labourer including the Casual Labourer with temporary status under the Respondents-Department, we direct the Respondent No.1 to take all possible measures to bring the proposed scheme in to force at the earliest, so that the applicant and other similarly situated persons could be considered for regularization as per the norms of the said scheme.

9. With the above observation and direction, this O.A. is disposed of. No costs.


(C.R.MOHAPATRA)
ADMINISTRATIVE MEMBER


(A.K.PATNAIK)
JUDICIAL MEMBER