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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.859 of 2010

Cuttack this the 26th September, 2012

CORAM:

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

AND

THE HON'BLE MR.A.K.PATNAIK, MEMBER(JUDL.)

- ...
1. Shri Bhabasankar Samal, aged about 43 years, Son of Late Judhistir Samal, Village/Post-Haripur, Via-Amarda, Mayurbhanj, PIN 757 055, working as Temporary Status Gr. 'D' (Mail Escort), Baripada Amarda Mail Line, At-Baripada.
 2. Shri Sanatana Naik, aged about 48 years, Son of Late Bisweswar Naik, At-June, Po.Ashana, Via-Bangiriposi, Dist. Mayurbhanj, PIN-757 032 presently working as Temporary Status Gr. 'D', Baripada-Kuamara Mail Escort under Superintendent of Post Offices, Mayurbhanj Division, Baripada.

...Applicants

By the Advocates: M/s.D.K.Mohanty, D.Pratihari, Counsel

-Versus-

1. Union of India represented through its Director General of Posts, Government of India, Ministry of Communication, Department of Posts, Dak Bhawan, New Delhi-110 001.
2. The Chief Postmaster General, Orissa Circle, Bhubaneswar, Dist. Khurda, PIN-751 001.
3. The Director of postal Services (HQ), O/O the Chief Postmaster General, Orissa Circle, Bhubaneswar, Dist. Khurda, PIN-753 001.
4. The Senior Superintendent of Post Offices, Mayurbhanj Division, At/Po.-Baripada, Dist. Mayurbhanj, PIN-757 001.
5. Assistant Superintendent of Post Offices (I/C), Baripada Central Sub Division, At/Po.Baripada, Dist. Mayurbhanj, PIN-757 001.
6. The Sub Divisional Inspector (Postal), Baripada East Sub Division, At/Post-Baripada, Dist. Mayurbhanj, PIN-757 001.

.....Respondents

By the Advocates:Mr.S.Barik, ASC

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O R D E R

C.R.MOHAPATRA, MEMBER (ADMN.):

While the Applicant No.1 is working as a Temporary Status holder Gr. 'D' employee (Mail Escort), Baripada Amarda Mail Line, At-Baripada, Applicant No.2 is working as a Temporary Status Gr. 'D',

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employee, Baripada-Kuamara Mail Escort under Superintendent of Post Offices, Mayurbhanj Division, Baripada. Their grievance is that in compliance of the order dated 17th April, 2007 in OA Nos. 174 & 175 of 2006, competent authority of the Department conferred them temporary status of Gr. D w.e.f. 12.04.1991. In terms of the existing instruction, being temporary status holder employee, they should have been regularized against the Gr. D Department soon after vacancies are available. Their further grievance is that they made representation requesting their regularization but there was no response. Hence by filing the instant OA jointly they have sought the following reliefs:

- “(i) To direct the Respondents to regularize the Applicants in any Gr. D vacancies retrospectively i.e. soon after 12.04.1991 i.e. the date when they have been conferred with the temporary status;
- (ii) To direct the Respondents to grant them all consequential service and financial benefits;
- (iii) To pass any other order/orders as deemed fit and proper.”

2. The case of the Respondents is that conferment of temporary status does not automatically imply that the casual labourers would be appointed as a regular Gr.D employee within any fixed time frame. Appointment to Gr.D vacancies will continue to be done as per the extant recruitment rules which stipulate preference to eligible ED employees. In this connection the Respondents have placed on record at Annexur-R/1 copy of the DGP&T letter No. 45-95/87-SPB-1 dated 12.04.1991. It has further been stated that on receipt of the requests of the applicant for grant of financial up gradation under TBOP the matter has been referred

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to the competent authority for clarification. Accordingly Respondents have prayed that this OA being devoid of any merit is liable to be dismissed.

3. It was contended by the learned counsel for the Applicant that because of discrepancy of record there was delay in conferment of temporary status on the applicants. Persons appointed after the applicant, on such casual basis were conferred temporary status earlier and meanwhile they were regularized in Gr. D posts. They have approached this Tribunal seeking direction for conferment of temporary status with consequential benefits and regularization of their services in Gr.D posts. This Tribunal disposed of the matter in a common order dated 17th April, 2007 with direction to the Respondents to examine the matter and if at all any such employee has been conferred with temporary status w.e.f. 28.11.1989 the applicants should be granted such benefits retrospectively. In case it is found that the assertion of the applicants is incorrect then they should be granted the benefits of temporary status w.e.f. 12th April, 1991 with all consequential benefits flowing there from. It has been contended by the Applicants' counsel that though the applicants were granted temporary status retrospectively they were not regularized despite available vacancies in Gr. D category and representation made by the applicants to the above effect. In support of availability of vacancies in Gr. D category, Learned Counsel for the Applicant relied on the information obtained by the Applicants under RTI Act, 2005. On the

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other hand the Respondents' Counsel besides reiterating the stand taken in their counter has contested the assertion of the Applicants about availability of vacancies in Gr. D category in Mayurbhanj Division.

4. After considering the rival submissions of the parties, we have perused the records. We find that the grievance of the applicants flowed from the instruction issued by the Respondents placed at Annexure-R/1 to the counter by the Respondents. Sl.No.12 and 17 of Annexure-R/1 provides as under:


- "12. Casual labourers may be regularized in units other than recruiting units also subject to availability of vacancies;
- 17. No recruitment from open market for Gr. D posts except compassionate appointments will be done till casual labourers with requisite qualifications are available to fill up the post in question."


5. The information obtained by the Applicant under RTI Act, 2005 reveals availability of vacancies in Gr. D posts after the retirement of regular incumbent. No whisper has been made in the counter with regard to the diligence made for regularization of the applicant in Gr. D posts in other units besides the recruitment units, if not as to why there has been deviation from the principles. It was brought to our notice by the Respondents' Counsel that meanwhile the posts have been converted to MTS. We are however concerned ~~with~~^{with} the grievance of applicants for regularization against Gr. D posts retrospectively.

6. In view of the above, the matter is remitted back to the Respondent No.2 i.e. Chief Postmaster General, Orissa Circle,

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Bhubaneswar, Dist. Khurda to consider the grievance of the Applicants for regularization against Gr. D posts and communicate decision to the Applicants in a well reasoned order within a period of 60(sixty) days from the date of receipt of a copy of this order.

7. With the aforesaid observation and direction this OA stands disposed of. No costs.


(A.K. Patnaik)
Member (Judicial)


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