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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. NO. 677 OF 2011

Cuttack, this the 6th day of December, 2013

CORAM

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

.....

1. Shri Sudhir Kumar Bhoi, aged about 51 years, son of Gandhar Bhoi.
2. Shri Rama Chandra Majhi, aged about 55 years, son of Arakhit Majhi.
3. Shri Biranchi Bhoi, aged about 49 years, son of Chaitanya Bhoi.
4. Shri Pradeep Kumar Das, aged about 49 years, son of Surendranath Das.
5. Shri Nityananda Bhoi, aged about 55 years, son of Dhadi Bhoi.
6. Shri Basudev Behera, aged about 55 years, son of Kathia Behera.
7. Srimati Dei, aged about 56 years, W/o. of Budhia Rout
8. Smt. Hati Dei, aged about 54 years, W/o. of B. Das.
9. Smt. Sehati Dei, aged about 57 years, W/o. of Bansidhar Das.
10. Smt. Sashi Dei, aged about 58 years, W/o. of Dhirba Charan Bhoi.
11. Shri Nidhi Majhi, aged about 60 years, son of Anu Majhi.
12. Smt. Asha Dei, aged about 58 years, W/o. of Nidhi Majhi.
13. Smt. Pramila Dei, aged about 57 years, W/o. of Bijay Jena.
14. Smt. Kuni Dei, aged about years, W/o. of Lauya Mumru.
15. Smt. Asha Dei, aged about 60 years, W/o. of Sauri Samal.
16. Smt. Chanda Dei, aged about 55 years, W/o. of Bikali Bhoi.
17. Smt. Parvati Dei, aged about 57 years, W/o. of Abhiram Singh.
18. Smt. Lalita Dei, aged about 56 years, W/o. of Bisukhilar.
19. Smt. Nishi Dei, aged about 59 years, W/o. of Jhari Bhoi.
20. Smt. Sara Dei, aged about 55 years, W/o. of Rama Rout.
21. Smt. Malati Singh, aged about 55 years, W/o. of Guna Singh.
22. Smt. Ramani Dei, aged about 50 years, W/o. of Kameswar Pradhan.
23. Smt. Hara Dei, aged about 56 years, W/o. of Brahmananda Samal.
24. Smt. Pravakarama, aged about 59 years, W/o. of Siba Bhoi.
25. Smt. Nilamani Singh, aged about 56 years, W/o. of Raghu Singh.
26. Smt. Bishnuma Pramila, aged about 58 years, W/o. of Suma Pradhan.
27. Smt. Santi Dei, aged about 57 years, W/o. of Sunaram Sain.
28. Smt. Bidu Dei, aged about 60 years, W/o. of Chitra Bhoi.
29. Smt. Pramila, aged about 50 years, W/o. of Bhagyadhar Samal.
30. Smt. Tara Dei, aged about 58 years, W/o. of Bipan Samal.
31. Shri Purna Chandra Mahanta, aged about 59 years, S/o. of Purastam Mahanta.
32. Smt. Radhi Dei, aged about 58 years, W/o. of Malaka Singh.
33. Sri Narana Das, aged about 52 years, S/o. of Jachindra Das.
34. Smt. Pramila Dei, aged about 55 years, W/o. of Babaji Bhoi.
35. Smt. Basanti Dei, aged about 53 years, W/o. of Biswanath Kandi.
36. Smt. Bilash Dei, aged about 59 years, W/o. of Biswambar Bhoi.
37. Shri Dhaneswar Pradhan, aged about 58 years, son of Lochan Pradhan.
38. Shri Sunia Dehuri, aged about 57 years, son of Gobinda Deuri.
39. Shri Bijay Nayak, aged about 46 years, son of Bancha Nayak.
40. Shri Sadananda Nayak, aged about 49 years, son of Pabana Nayak.
41. Shri Kirtan Das, aged about 52 years, son of Kulamani Das.
42. Shri Dharmananda Bhoi, aged about 52 years, son of Dhadi Bhoi.
43. Shri Airupananda Bhoi, aged about 52 years, son of Dhadi Bhoi.
44. Shri Chandramani Sahoo, aged about 53 years, son of Rama Sahoo.
45. Smt. Dulla Dei, aged about 58 years, wife of Babaji Bhoi.
46. Shri Bandhu Bhoi, aged about 54 years, son of Bhamar Bhoi.



- 47.Smt. Jayanti Dei, aged about 47 years, wife of Raila Singh.
48.Shri Bharat Nayak, aged about 44 years, son of Guna Nayak.
49.Shri Manaranjan Das,aged about 50 years, son of Bharat Das.
50. Smt. Mini Dei, aged about 51 years, W/o. of Kala Singh.
51. Smt. Sakhi Dei, aged about 58 years, W/o. of Makar Bhoi.
52. Smt. Pramila Dei, aged about 56 years, W/o. of Naka Rout.
53. Smt. Chunumuni Dei, aged about 56 years, W/o. of Sundara Mandi.
54. Smt. Laxmi Dei, aged about 56 years, W/o. of Kalandi Majhi.
55.Shri Gajendra Majhi, aged about 56 years, son of Daitari Majhi.
56.Shri Gokali Majhi,aged about 52 years, son of Gurubaria Majhi.
57. Smt. Suni Dei,aged about 51 years, Wife of Dasarathi Singh.
58.Shri Pandaba Nayak, aged about 56 years, son of Gurubari Nayak..
59.Smt. Laxmima Sabi Dei, aged about 57 years, Wife of Bhajani Bhoi.
60.Shri Sankar Patra, aged about 56 years, son of Late Laxman Patra.
61.Suli Dei,aged about 58 years, Wife of Alekha Bhoi.
62.Rui, aged about 59 years, Wife of Rabi Singh.
63.Deba Dei, aged about 53 years, Wife of Golekha Bhoi.
64.Smt. Shanti Dei, aged about 50 years, Wife of Nirranjan Das

(All are working as Casual Labourers in Group -- 'D' post at
Central Rice Research Institute, At/PO-Bidyadharpur,
Town/District-Cuttack-6.)

.....Applicants

Advocate(s).... M/s. Ashok Mishra, S.C. Rath,

VERSUS

Union of India represented through

1. Secretary, Indian Council of
Agricultural Research,
Krishi Bhawan, New Delhi-1.
2. Director, Central Rice Research Institute,
At/Po-Bidyadharpur,
Town/Dist. Cuttack-6.

..... Respondents

Advocate(s)..... Mr. S.B. Jena,



ORDER(Oral)

A.K. PATNAIK, MEMBER (JUDL.)

The Applicants (64 in numbers) claiming to have been working on casual basis in Gr. D post at CRRI, Cuttack have filed the instant OA on 23.09.2011 praying for the following relief:

- “(a) To direct the respondents to regularise the service of the applicants in Group -‘D’ posts retrospectively with effect from 01.09.1993.
- (b) To direct the respondents to pay the applicants all consequential service and financial benefits.
- (c) To pass any other order/orders as would be deemed fit and proper in the circumstances of the present case.”

2. By filing MA No.836 of 2011, the Applicants have prayed to allow them to prosecute the instant OA jointly and by filing MA No. 941 of 2011 on 24.10.2011, u/s.21 (3) of the A.T. Act, 1985 they have prayed to condone the delay in filing the Original Application belatedly.

On 03.11.2011 notices were issued on both OA as well as on both the MAs.

3. Respondents have filed their counter in which they have strongly objected the very maintainability of the OA in the present form by alleging non compliance of the procedure. They have objected the prayer for joint prosecution by stating therein that in one case sixty four employees cannot claim for regularization of their service as the facts differ from person to person and that too some of the applicants were granted temporary

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status with effect from 1.9.1993 and some of them were left out due to which they cannot claim any parity on their status. The Applicants approached this Tribunal without availing of opportunity available to them by ventilating their grievance before the competent authority. On the above grounds, the Respondents have prayed that this OA being not maintainable is liable to be dismissed.

4. Heard Mr.Ashok Mishra, Learned Senior Counsel assistant by Shri S.C.Rath, Learned Counsel and perused the records.

Rule – 4(5)(a) (b) empowers the Tribunal to allow more than one applicants to join in single OA. The said provision provides as under:

- “(a) Notwithstanding anything contained in sub-rules (1) to (3), the Tribunal may permit more than one person to join together and file a single application if it is satisfied, having regard to the cause of action and the nature of relief prayed for that they have a common interest in the matter.
- (b) Such permission may also be granted to an association representing the persons desirous of joining in a single application provided, however, that the application shall disclose the class/grade/categories of persons on whose behalf it has been filed [provided that at least one affected person joins such an application].”

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Section 20 of the A.T. Act, 1985 deals with regard to exhaustion of remedy prior to filing the OA. It reads as under:

“(1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances.

(2) For the purposes of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the relevant service rules as to redressal of grievances,-

(a) if a final order has been made by the Government or other authority or officer or other person competent to pass such order under such rules, rejecting any appeal preferred or representation made by such person in connection with the grievance; or

(b) where no final order has been made by the Government or other authority or officer or other person competent to pass such order with regard to the appeal preferred or representation made by such person, if a period of six months from the date on which such appeal was preferred or representation was made has expired.

(3) For the purposes of sub-sections (1) and (2), any remedy available to an applicant by way of submission of a memorial to the President or to the Governor of a State or to any other functionary shall not be deemed to be one of the remedies which are available unless the applicant had elected to submit such memorial.”

Section 21 of the Administrative Tribunals Act, 1985 deals with regard to the time limit within which one has to file the OA before this Tribunal. It provides as under:

“(1) A Tribunal shall not admit an application, -

(a) in a case where a final order such as is mentioned in Clause (a) of sub-section (2) of Section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;

(b) in a case where an appeal or representation such as is mentioned in Clause (b) of sub-section (2) of Section 20 has been made and a period of six months had expired thereafter without such final

order having been made, within one year from the date of expiry of the said period of six months.

(2) Notwithstanding anything contained in sub-section (1), where-

(a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and

(b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court,

The application shall be entertained by the Tribunal if it is made within the period referred to in Clause (a), or, as the case maybe, Clause (b), of sub-section (1) of within a period of six months from the said date, whichever period expires later.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified in Clause (a) or Clause (b) of sub-section (1) or, as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period."

5. According to the Applicants in the MA No. 941 of 2011 the Respondents/Opposite Parties have formulated a scheme to confer temporary status and regularization of casual labourers working under them in the year 1995 giving effect to the same scheme from 1.9.1993 in compliance of the scheme of the DOP&T. The Respondents /Opposite Parties have granted the benefits of GPF to the petitioner from 1996 to 2000 and subsequently the same were withdrawn. It has been stated that the applicants have a right from the year 1993 i.e. from the date of issuance of the scheme. The Applicants approached different authorities but by giving false assurance the authorities sat tight

over the matter and did not take any step for regularization of their services. Accordingly, by stating that filing of the OA is neither intentional or deliberate and, therefore the delay be condoned and the OA be decided on merit.

6. The Applicants have prayed permission to maintain this OA jointly on the ground that the grievance of the applicants is one and the same as they have challenged the action of the Respondents in not regularizing them in service.

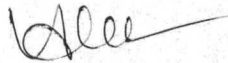
7. After hearing Learned Counsel for both sides and after going through the grounds taken by the Applicants in both the MAs I am not satisfied that both the MAs can be allowed especially in absence of any evidence that the applicants have ever approached the competent authority at any point of time after the scheme came into force i.e. in the year 1995. So also no piece of paper has been annexed/produced in support of the claim that the applicants have approached the competent authority till the date of filing of the instant OA. The applicants have also not given details of their working (since when and in which post). The Applicants have also not challenged specifically any order in this OA by which they are aggrieved.

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8. The Tribunal is a creation of statute and when there is a specific provision in the Administrative Tribunals Act, 1985 and the Rules made there under, in my considered opinion the Bench cannot embark upon the said specific provision. Therefore, by allowing the prayer made in the MAs it would tantamount to acting contrary to the provisions as enumerated in the Act, 1985 and the Rules made thereunder.

9. In vie of the above, I am not inclined to allow the MAs and accordingly both the MAs are dismissed resultantly the OA stands dismissed by leaving the parties to bear their own costs.


(A.K.PATNAIK)
Member (Judicial)