

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No. 100 of 2009
Cuttack this the 10th day of March, 2011

Panchanan Singh Applicant
-Versus-
Union of India & Others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not? ~~X~~
2. Whether it be circulated to Principal Bench, Central Administrative Tribunal or not? ~~X~~

All -
(A.K.PATNAIK)
Member(J)

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

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

AND

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

Shri Panchanan Singh aged about 30 years, Son of Kulamani Singh,
permanent resident of Village-Madhapur, PO/Dist. Jagatsinghpur.

.....Applicant

By legal practitioner: M/s.B.S.Tripathy, M.K.Rath, J.Pati, M.Bhagat, Counsel,

-Versus-

1. Union of India represented through the Chief Postmaster General,
Orissa Circle, At/Po.Bhubaneswar, Dist. Khurda.
2. The Superintendent of Post Offices, Cuttack South Division, Cuttack-
1.
3. The Assistant Superintendent of Post Offices, Jagatsinghpur Sub
Division, Jagatsinghpur-754 103.

....Respondents

By legal practitioner: Mr.D.K.Behera, ASC

O R D E R

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

The Applicant was appointed as a part time Sweeper cum
Waterman on 01.08.2001 in SVM College Sub Post Office, Jagatsinghpur.
Since then he has been working as substitute in different Branch Post
Offices. Despite availability of vacancy, instructions for regularization of
service of part time employees and repeated representations his grievance
has not yet ^{been} redressed. Hence the present OA.

2. Respondents filed their counter in which it has been stated that
the applicant claims to have been appointed as part time sweeper cum

waterman in SVM College Post office, Jagatsinghpur on 01-08-2001. There was a ban on appointment of casual labourers after 29.11.1989. Any appointment made after the cut off date (29.11.1989) is in violation of the Government order and hence the appointee cannot claim any right for such appointment.

In regard to the continuance of the applicant as substitute, it has been submitted by the Respondents that in terms of the DG Posts instruction (e) below Rule 7 of GDS (Conduct and Employment) Rules, 2001 (Annexure-R/2), it is a natural process for grant of leave without allowance to the GDS on providing suitable substitute in their place at their own risk and responsibility. No substitute has yet been appointed as regular GDS in the Division in which the applicant has been continuing as substitute.

It has further been stated that out of the 61 contingent paid part time casual laboruers appointed in the Division within the cut off date 29.11.1989, no one has been regularized as GDS employee in this Division though their appointment has been made observing usual formalities.

3. Applicant filed his rejoinder more or less reiterating the stand taken in his OA. In addition, it has been stated that standing on a similar footing one Shri Alok Kumar Biswal, son of Rushi Kumar Biswal who was engaged on contingent basis in Borikina Sub Post Office during the year 1994 has been regularized as GDSMC in Sithalo Branch Post Office vide order dated 12.12.2002. Accordingly, it has been stated that as there is no

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difference between the case of Shri Biswal and the applicant, non consideration of the case of the applicant for regularization being highly illegal, arbitrary and discriminatory is violative of Articles 14 and 16 of the Constitution of India.


4. ★ Heard the rival submissions of the parties and perused the materials placed on record. We find no such cogent reason to direct the Respondents for regularization of the applicant as it is trite law that service rendered as substitute is of no use as the substitute works at his risk and under the overall responsibility of the original ED Agents. However, we find some force for reckoning the period of the part time work rendered by the Applicant. The DGP&T instruction No.17-141/88-EDC&Trg. Dated 6th June, 1988 takes care of the interest of such part time worker. It reads as under:

“(28) Preference to casual labourers in the matter of appointment as ED Agents:- According to the prevalent Recruitment Rules governing the cadre of Group D the order of preference among various segments of eligible employees is as under: -

- (a) Non-test category;
- (b) ED Employees;
- (c) Casual labourers;
- (d) Part time casual labourers.

2. Since the number of vacancies of Group D is limited and the number of ED employees eligible for recruitment as Group D is comparatively large, the casual labourers and part time casual labourers hardly get any chance of their being absorbed as Group D. Thus majority of casual labourers with long service are left out without any prospect of their getting absorbed in Group D cadre.


3. Keeping the above in view, a suggestion has been put forth that casual labourers, both full and part time should be




given preference for recruitment as Extra-Departmental Agents, in case they are willing, with a view to afford the casual labourers a chance for ultimate absorption as Group D.

4. The suggestion has been examined in detail and it has been decided that casual laboruers, whether full time or part time, who are willing to be appointed to ED vacancies may be given preference in the matter of recruitment to ED posts, provided they fulfill all the conditions and have put in a minimum service of one year. For this purpose, a service of 240 days in a year may be reckoned as one year's service. It should be ensured that nominations are called for from Employment Exchange to fill up the vacancies of casual labourers so that ultimately the casual labourers who are considered for ED vacancies have initially been sponsored by Employment Exchange."

5. In view of the above, whenever the Respondents seek to fill up any ED/Gr.D post and in response to the advertisement if the applicant applies for the same, his case shall be considered by the Respondents in accordance with the DGP&T instruction stated above. With the aforesaid observation and direction this OA stands disposed of. No costs.


(A.K.PATNAIK)
Member(J)


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