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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO. 516 OF 2012
Cuttack, this the 19th Day of May, 2016

A. Paikray & Ors..... Applicants

Vs.

Union of India & Others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not?

2. Whether it be referred to PB for circulation?


(R.C. MISRA)
ADMN. MEMBER


(A.K. PATNAIK)
JUDICIAL MEMBER

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. No. 516 OF 2012
Cuttack, this the 19th day of May, 2016

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HON'BLE MR. A.K. PATNAIK, MEMBER (J)
HON'BLE MR. R.C. MISRA, MEMBER(A)

1. AmarendraPaikaray, aged about 35 years, S/O SanthaPaikaray At/PO Badakul, Dist-Khurda.
2. KabirajBehera, aged about 35 years, S/O Late ManguliBehera, At/PO Badkul, Dist-Khurda.
3. NiranjanGhadei, aged about 41 years, S/O KhaleswarGhadei, At: Barunapada, PO: KalupadaGhata, Dist-Khurda.
4. PitamberParida, aged about 39 years, S/O DamadarParida, At: Barunapada, PO: KalupadaGhata, Dist-Khurda.
5. SwetaPalai, aged about 35 years, S/O DharamaPalai, At: Nuagara, PO Badakul, Dist: Khurda.
6. Prafulla Kumar Sethi, aged about 42 years, S/O NathaSethi, At: Chatua, PO: Dingar, Dist-Khurda.

.....Applicants

By the Advocate(s)-Mrs. P. Priyambada

-Versus-

Union of India, represented through

1. Secretary, Ministry of Defence(Navy), Defence Head Quarters, New Delhi-110011.
2. Flag Office, Command-in-chief, Eastern Naval Command, Naval Base, Visakapatnam-530014.
3. Admiral Superintendent, Naval Dockyard, Visakapatnam-530014.
4. Commanding Officer, Chilika, INS(Chilika), P.O. Chilika, Dist: Khurda-752037.

.....Respondents

By the Advocate(s)-S.K. Patra

ORDER

A.K.PATNAIK, MEMBER (J):

The prayer of the applicants in this O.A. is for a direction to Respondents to absorb them in the post of unskilled casual labourer as per the Recruitment Rule, 2000 on the ground that they were recruited as casual labourers on 19.09.1996through employment exchange and are discharging their duties throughout since then. Suddenly without giving any intimation, the Respondents did not allow them to continue as casual labour on the plea that there is no vacancy. As per the provision engrafted for the causal labourers

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(grant of temporary status and regularization) scheme of Government of India 1993, their services as casual labour should not have been dispensed with, but without giving them any notice they were disengaged. As the applicants were engaged initially in the year 1996 as per relevant recruitment rules their cases ought to have been considered for permanent absorption but without considering their cases, the Respondents published the advertisement for filling up of 400 vacancy of unskilled labourers in terms of new recruitment rule. As such the applicants have approached this Tribunal for the aforesaid relief.

2. On the other hand, the Respondents have filed their reply in which it has been stated that the applicants were engaged on daily wage basis which does not confer ^{on} them any right for their permanent absorption. The engagement on daily wage basis is not done with reference to the vacancy of any department. Their engagement ^{was} ~~were~~ subject to the availability of work. When there was no requirement of engagement on daily wage basis, they were disengaged. They have also denied the allegation of the applicant that the authorities had ever given them assurance to absorb them as and when vacancy arises. The DOP&T O.M. relied upon by the applicant has no application in the present case. The recruitment rules ~~does~~ not envisage any such provision for absorption of the casual labourers. Moreover, there is no fundamental right for those who have been employed on a daily wage basis to claim for their permanent absorption. Accordingly, the Respondents have prayed for dismissal of the O.A.

3. The applicant also filed rejoinder more or less reiterating the ground taken in this O.A.

4. We have heard Mrs. P. Priyambada, Ld. Counsel for the applicants and Mr. S.K. Patra, Ld. ACGSC appearing for the Respondents and perused the documents.

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5. The Ld. Counsel for the applicant emphasized on the point that in the year 1996, 300 persons were recruited on casual basis. Out of 300 persons, 293 persons working in different units under the Respondents-Department were regularized whereas the applicants were singled out without any valid reason. Whenever, the applicants requested the authorities for their absorption they were assured that their cases would be considered as and when vacancy is available but till date their cases have not been considered for which the applicants are moving from pillar to post. It has been contended that this is a clear case of discrimination which is in violation of the provisions enshrined in Article 14 and 16 of the Constitution of India and that the applicants are entitled to the relief claimed by them in the O.A. as has been granted to similarly placed persons.

6. This was objected to by the Ld. Counsel appearing for the Respondents by stating that the applicants cannot claim their regularization as a matter of right specially when they joined on casual basis after accepting the terms and conditions i.e., continuance on daily wage basis, and that does not confer them any right to be absorbed. Accordingly, the Ld. Counsel for the Respondents have ~~8~~ prayed for dismissal of the O.A.

7. We have considered the rival submissions of the parties and perused the records.

8. It is needless to say that discrimination is antithesis to law. It is the specific case of the applicant that they were recruited along with 300 persons on daily wage basis out of them 293 working in different units were regularized as per the existing recruitment rules, but they have been discriminated. No doubt that a daily wager have no right for absorption, yet, if similarly situated persons engaged on daily wage basis working in different units were regularized, certainly the applicants can claim a right to be absorbed. It is not the case of the

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Respondents that the applicants are shorter in conditions for absorption stipulated in the recruitment rules. It is seen that the Respondents have issued advertisement for filling up of 400 vacancies of unskilled labourer. This Tribunal while admitting this O.A. has made it clear that any recruitment pursuant to the said notification shall be subject to the final outcome of this O.A.

9. As discussed above, since persons recruited along with applicant on daily wage basis have been absorbed, we are of the considered view that the case of the applicants needs consideration if their case really stand on a similar footing. In the circumstances, the respondents are directed to examine the case of the applicants with reference to the cases of other similarly situated persons who are recruited along with applicants on daily wage basis and subsequently absorbed in the department whereas the applicants were singled out. In case, if it is found that the applicants are similarly situated persons but could not be regularized due to non availability of vacancy at the relevant time, then their cases shall be considered for absorption, in that event a detailed reasoned order shall be communicated to the applicant. The entire exercise shall be completed within a period of 60 days from the date of receipt of copy of this order. Accordingly, this O.A. is disposed of. No costs.

(R.C. MISRA)
ADMN. MEMBER

(A.K. PATNAIK)
JUDICIAL MEMBER