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CENTRAL ADMINISTRATIVE TRIBUNAL

CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 688 OF 2012

Cuttack, this the 8th Day of August, 2016

Pravat Kumar Nayak..... Applicant

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. 688 OF 2012
Cuttack, this the 8th day of 2016

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

Pravat Kumar Nayak, aged about 36 years, S/o. Bijaya Kumar Nayak, At-
Chasasnagara. PO-Balugaon, Dist-Khurda ...Applicant

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

-Versus-

Union of India, represented through

1. Secretary, Ministry of Defense(Navy), Defense Head Quarters, New Delhi.
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 applicant in this O.A. is for a direction to Respondents to absorb them in the post of unskilled casual labour as per the Recruitment Rule, 2000 on the ground that he was recruited as casual labourer on 19.09.1996 through employment exchange and discharging his duties throughout since then. Suddenly without giving any intimation, the Respondents did not allow him to continue as casual labour on the plea that there is no vacancy. As per the provision engrafted for the casual labourers (grant of temporary status and regularization) scheme of Government of India 1993, his service as casual labour should not have been dispensed with without giving him any notice. As the applicant had been engaged initially in the year 1996 as per relevant recruitment rules his case ought to have been

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considered for permanent absorption; but without considering the same, the Respondents published the advertisement for filling up of 400 vacancy of unskilled labourers in terms of new recruitment rule. As such the applicant has 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 applicant had been engaged on daily wage basis which does not confer on him any rank for permanent absorption. The engagement on daily wage basis is not done with reference to the vacancy of any department and the engagement were subjected to the availability of work. When there was no requirement of engagement on daily wage basis applicant was disengaged. They have also denied the allegation of the applicant that the authorities had given him assurance to absorb him as and when vacancy would arise. The DOP&T O.M. relied on by the applicant has no application in the present case. The recruitment rules do not envisage any such provision for absorption of the casual labourers. Moreover, no right accrues on a person employed on a daily wage basis to claim permanent absorption. Accordingly, the Respondents have prayed for dismissal of the O.A.

3. The applicant has also filed rejoinder more or less reiterated the ground taken on the 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.

5. It is needless to mention that the facts of this O.A. being similar to O.A.No.516 of 2012 had been heard analogous and both the matters were



reserved for orders vide order 31.03.2016. However, in the meantime, O.A.No.516 of 2012 was disposed of on 19.05.2016 leaving aside the instant O.A.

This Tribunal while disposing of O.A.No.516 of 2012 held and directed as under:

"It is needless to say that discrimination is antithesis to law. It is the specific case of the applicants that they were recruited along with 300 persons on daily wage basis out of them 293 were working in different units were regularized as per the existing recruitment rules, but they were discriminated. No doubt the daily wagers have ~~any~~^{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 Respondents that 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.

As discussed above, since persons recruited along with applicants 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 in 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 subsequently absorbed in the department whereas the applicants were singled out. In any 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 any event a detailed reasoned order shall be communicated to the applicants. The entire exercise shall be completed within a period of sixty days from the date of receipt of this order. Accordingly, the O.A. is disposed of. No costs.

6. For the reasons discussed above, we dispose of this O.A. with a direction to examine the case of the applicant with reference to the case of other similarly situated persons who were recruited along with the applicant on daily wage basis and subsequently absorbed in the department whereas the applicant was left out. In any case, ^{if} it is found that the applicant is similarly situated person but could not be regularized due to non-availability of vacancy at the relevant time, then his case shall be considered for absorption, in any event a detailed reasoned order shall be

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communicated to the applicant. The entire exercise shall be completed within a period of sixty days from the date of receipt of this order. Accordingly, the O.A. is disposed of. No costs.

(R.C. MISRA)

ADMN. MEMBER



(A.K. PATNAIK)

JUDICIAL MEMBER

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