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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No.539 of 2013
Cuttack, this the 18th day of December, 2014

CORAM
HON'BLE MR. R.C. MISRA, MEMBER (A)

Sri Jayaram Pradhan,
aged about 52 years,
Son of Late Trinath Pradhan,
Permanent resident of Bharada,
P.O.-Bhanja Nagar, District-Ganjam,
at present working as a Tractor Driver
on casual basis under the Central
Cattle Breeding Farm, Chiplima and
Resident of Village-Goshala Square,
P.O. Kalamati, P.S. Burla,
Dist-Sambalpur.

...Applicant

(Advocate: Mr. R.B. Mohapatra)

VERSUS

Union of India Represented through

1. The Secretary to Government of India,
Ministry of Agriculture,
Department of Animal Husbandry,
Dairying and Fisheries,
At-Krishi Bhawan,
New Delhi-110001.
2. Director of Central Cattle Breeding Farm,
Chiplima, P.O.-Basantpur,
Dist-Sambalpur-768 025.

... Respondents

(Advocate: Mr. P.R.J. Dash)

P.J.D.

ORDER

R.C. MISRA, MEMBER (A)

Applicant in the present case claims to have been working as a Tractor Driver on casual basis under Central Cattle Breeding Farm, Chiplima, in the District of Sambalpur Odisha and has approached this Tribunal making the following prayer:-

- “a) Admit the above Original Application and issue notices against the Respondents requiring them to file their counter/show cause within a stipulated period.
- b) And if they fail to show cause or caused insufficiently, then call for the relevant records and papers relating to the recruitment test and interview conducted for the vacant permanent post of Tractor Driver in CCBF, Chiplima.
- c) And after perusing the pleadings of both the parties and hearing them finally allow this Original Application and pass necessary orders/direction against the Respondents to either observe the Applicant against the vacant permanent post of Tractor Driver in CCBF, Chiplima taking into consideration of past service/experience and the license issued by the R.T.O., Sambalpur as a Tractor Driver or to confer the temporary status of his casual service at par with the other casual employees of the said organization or in alternative, the employment may be given in favour of his son Sri Rabindra Pradhan, who has the requisite qualification and the Heavy Vehicle Driving License to hold the post of Tractor Driver;
- d) and pass any other appropriate order(s) as deems proper and fit in the interest of general importance and in the interest of justice;
- e) and for which act of your kindness, the Applicant as in duty bound shall ever pray.”

2. The short facts of the case are that the Central Cattle Breeding Farm which functions under the Department of Animal Husbandry of the Government of India in the Ministry of Agriculture has been set up with an objective of development of indigenous cattle breeding by scientific research. The applicant was working as Tractor Helper in the same Farm. He has also obtained a driving license of Tractor issued by the RTO, Bargarh in the year 1981. Since the year



1981 he has been working on casual basis as Tractor Driver in the said Farm. The Government of India in the Department of Personnel and Training prepared a scheme for grant of Temporary Status to Casual Labourers vide Memorandum dated 10.09.1993. Accordingly, the Ministry of Agriculture, Department of Animal Husbandry and Dairying also issued a letter dated 24th November, 1994 to Respondent No.2 i.e., Director of Central Cattle Breeding Farm, Chiplima to take necessary action for granting Temporary Status to the Casual Labourers working in the Farm. The Respondent No.2 in due compliance prepared a draft seniority list of the Casual Labourers. However, in the same draft seniority list the applicant's name did not figure. In the year 2000, 98 Casual Labourers working in the Farm made representations to Respondent No.1 for according Temporary Status to them with effect from 01.01.1986. Since Respondent No.1 did not make any response to the prayer, these Casual Labourers filed O.A. No.231/2000 before the Tribunal. During pendency of the said O.A., Respondent No.1 intimated Respondent No.2 that the representations of the Casual Employees made in 1999 have been rejected. Thereafter, Respondent No.2 issued a letter to the Employment Exchange, Sambalpur on 21.04.2009, for sponsoring names of suitable candidates for fresh recruitment against the vacant posts of Tractor Driver in CCBF, Chiplima. The applicant was however, deprived of appearing in the interview for selection to the post of Tractor Driver. It is alleged by the applicant that Respondent No.2 secretly conducted the test at Sunabeda and forwarded a merit list to Respondent No.1 for approval. The applicant earlier had filed O.A. No.959/12 which was disposed of by the Tribunal at the stage of admission on 21.12.2012 with a direction to Respondent No.2 to consider the representation filed by the applicant and communicate the decision in a well reasoned order to the applicant within a period of two months. Complying with



this order of the Tribunal, the Director CCBF, Chiplima (Respondent No.2) communicated order dated 25.01.2013 to the applicant in which the representation filed by the applicant was rejected on the ground that he was not an employee of CCBF, Chiplima and his name did not appear in the draft seniority list. Further, the minimum qualification for the post of Tractor Driver is H.S.C. pass or ITI pass, but the applicant had no minimum qualification to be reconsidered for such post. A further letter was issued by Respondent No.2 on 18.02.2013 in which it was mentioned that after implementation of the 6th Central Pay Commission, the minimum qualification for entry in Govt. service is Matriculate or ITI pass. Since the applicant did not have the minimum required qualification for recruitment to the post of Tractor Driver, his case was not considered for this post. Thereafter, the applicant again made an appeal to the Respondent No.2 in which he made an alternative prayer to provide employment in favour of his son one Shri Rabindra Pradhan who passed HSC Examination and was having Heavy Vehicle Driving License for the post of Tractor Driver. It is submitted by the applicant that the Respondent No.2 refused to receive such an application. Thereafter, the applicant has approached the Tribunal seeking relief, as has been stated above.

3. The Respondents have filed their counter affidavit in this case in which they have submitted that the applicant worked as Casual Labourer at CCBF, Chiplima from July, 1980 to 10.08.1987, as per the available official records. The applicant discontinued to report at the Farm on 11.08.1987. It is admitted that the Govt. of India introduced the Casual Labourers (Grant of Temporary Status and Regularization) Scheme in the year 1993. This Scheme stipulates grant of temporary status to casual labourers: (i) who were in employment on the date of issue of the said O.M. i.e., 10.09.1993 and (ii) who had rendered a continuous

service of at least one year on that date. The applicant had discontinued to work as a casual labourer from 11.08.1987 as per records of the Muster Roll and, therefore, he was not working at CCBF, Chiplima on the date of issue of the O.M. dated 10.09.1993. Therefore, as per provisions of the O.M. of the DOP&T he was not at all eligible to be considered for conferment of temporary status. In respect of the direct recruitment, the Respondents have submitted that the applicant's request for his appointment to the post of Tractor Driver could not be considered under the Recruitment Rules, because, he was not a Matriculate which is the essential qualification for the post. In this regard the Respondents have completely denied the claim of the applicant that he served as a Tractor Driver for 31 years in the Farm. He had actually worked as casual labourer from July, 1980 to 10.08.1987 and was clearly not eligible for grant of temporary status under the Scheme of 1993 as he did not fulfill any of the conditions stipulated in the Scheme. It is also submitted by the Respondents in the counter affidavit with regard to providing an employment to his son, one Shri Rabindra Pradhan, that there is no provision under law to consider such application as the recruitment is done as per the Recruitment Rules.

4. Learned counsel for the applicant has also filed his rejoinder.
5. The learned counsel for the applicant pleaded that the case of the applicant deserves consideration since he has been working in the Respondents organization as a Tractor Driver for the last 22 years. He has also argued that the applicant has been denied his rightful opportunity to appear in the test and interview for the said post. He has mentioned ~~that~~ the judgment dated 27.08.2008 passed in O.J.C. No.3289 of 1999 of the Hon'ble High Court of Orissa in which it has been decided that the CCBF, Chiplima is an 'industry as defined u/s/2(j) of the I.D. Act' and therefore, the casual employees of Temporary Status has every



right to demand regularization of their services against the permanent vacant post after completion of 240 days in a Calendar Year.

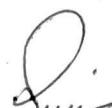
6. Per contra the learned Addl. Central Govt. Standing Counsel for the Respondents has argued that the applicant's claim that he had worked continuously for 22 years in the Farm is completely baseless and is not based on record. It has been reiterated by the learned ACGSC for the Respondents that as per official records available, the applicant worked only from July, 1987 to August, 1987. Therefore, he had no eligibility to be considered under the scheme for conferment of Temporary Status of Casual Labourers issued in the year 1993.

7. Having heard the learned counsel for both the sides, I have also perused the records. On perusal of "Casual Labourers (Grant of Temporary Status and Regularization) Scheme issued by the Government of India, it reveals that the said Scheme came into force w.e.f. 01.09.1993. At para 4.(i) of the Scheme, it is mentioned that Temporary Status would be conferred on all casual labourers who are in employment on the date of issue of this OM and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week). Further, para 4.(ii) provides that such conferment of temporary status would be without reference to the creation/availability of regular Group 'D' posts. With regard to the prayer for conferment of temporary status, the onus is on the applicant to establish that his claim is in conformity with the provisions of this Scheme dated 01.09.1993, and that he fulfills the basic requirements of working for the minimum period as prescribed. He also needs to establish that he was, as on the date of operation of the Scheme, working as casual labourer in the Department. In the present case the applicant has failed to produce



any document with regard to the claim of his working in the Respondent's organization as on the date when the scheme came into being. The Respondents have submitted that on the basis of the Muster Roll, it was found that the applicant was working as casual labourer from July, 1980 to August, 1987. On the date when the scheme came into force, he was not working in the Respondent-Organization. It is also submitted by the Respondents as well as admitted by the applicant that his name was not included in the draft seniority list of casual workers prepared by the Respondents. The applicant's claim is that his services were utilized from 2012 by the Respondent's-Department and that the Respondents with mala fide intention have denied the benefits to the applicant. To lend credibility to these accusations, the applicant should have produced documents in the support of his case. Tribunal can protect his interest, as he fervently prayed only when necessary irrefutable proof is brought in by him. In case of his failure to do so, the claims made would only sound empty and without any foundation. I here turn to the other prayer of the applicant that if his case is not considered an alternative employment should be given in favour of his son Shri Rabindra Pradhan who has the requisite qualification for this post. I am here reminded of the provisions of the Article 16 of the Constitution of India which lays down that "There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State". No special dispensation can be made for the applicant's son in utter disregard of provisions guaranteed under the Constitution. So applicant's prayer in this regard without any doubt is liable to be rejected in limine.

8. As enumerated above, the applicant has neither established his case for being considered for conferment of temporary status in pursuance of DOP&T O.M. dated 01.09.1993 nor could he establish that he had the minimum requisite



qualification for being considered under direct recruitment to the said post of Tractor Driver. The Tribunal must find a sound basis for giving any direction to Respondents, and since such a basis is conspicuous by its absence in the present case, it would be my conclusion that the applicant has failed to make out a case for the relief that he has sought in the instant O.A. In the result this O.A. is sans merit and accordingly the same is dismissed, without however, ^{any} ~~no~~ order as to costs.


(R.C. MISRA)
MEMBER (A)

K.B.