

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. NO. 1013 OF 2013

Cuttack this the 2nd day of May, 2014

CORAM

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

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

.....

D. Balaram Redy,
aged about 40 years,
Son of Sri D. Jaguli Redy,
Presently resident at VIP Road,
Kumar Bishram, Puri-2

...Applicant

(Advocates: M/s. P.K.Nayak, A.K.Dalai, S. Aun)

VERSUS

1. Accountant General,
Odisha, Bhubaneswar,
At/PO- Bhubaneswar, Dist- Khurda.
2. Deputy Accountant General (Es-II) Puri,
At/PO/Dist- Puri.
3. Union of India Represented through
Comptroller & Auditor General of India;
9, Deen Dayal Upadhyaya Marg, New Delhi -110124.

... Respondents

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

ORDER (ORAL)

A.K.PATNAIK, MEMBER (JUDL.):

Heard Mr. P.K.Nayak, Learned Counsel for the Applicant, and
Mr. P.R.J.Dash, Ld. Addl. CGSC appearing for the Respondents, on whom
a copy of this O.A. has already been served, and perused the materials
placed on record.



2. The sum and substance of this case, filed under Section 19 of the Administrative Tribunals Act, 1985, is that the applicant has been working as a contingent paid worker under the Respondents since 2008. The Respondents regularized the co-workers working as contingent basis in the post of MTS but applicant's case was not considered. It has been alleged that though he has put forth his grievance through representations one after another to Respondent No.2 vide Annexures- 3, 4 and 5 but till date he has not received any positive response. He submits that his first representation is pending since 11.10.2012 as at Annexure-3. The applicant has filed the instant O.A. praying for a direction to the Respondent Nos. 1 and 2 to give appointment to the applicant against MTS and further to pay his wages for the month from January 2012 to August 2012 immediately.

3. On the other hand, Mr. P.R.J.Dash, Ld. ACGSC appearing for the Respondents, submitted that at this stage he has no immediate instruction as to whether any such representation has really been preferred and if so the status thereof.

4. We fail to understand as to how disposal of representation can take such a long time whereas the law laid down is right to know the result of the representation that too at the earliest is part of compliance of principle of natural justice and employer is also duty bound to look into the grievance of the employee as raised in the representation and reply him/her suitably without any delay. In the instant case, as it appears, though the applicant submitted representation ventilating his grievance way back on 11.10.2012 he has not received any reply or got the benefit till date. Hon'ble Supreme Court of India in the case of S.S.Rathore-Vrs-State of Madhya Pradesh, AIR1990 SC Page 10 / 1990 SCC (L&S) Page 50 has held as under:



PARA -17. In this background if the original order of punishment is taken as the date when cause of action first accrues for purposes of Article 58 of the Limitation Act, great hardship is bound to result. On one side, the claim would not be maintainable if laid before exhaustion of the remedies; on the other, if the departmental remedy though availed is not finalised within the period of limitation, the cause of action would no more be justifiable having become barred by limitation. **Redressal of grievances in the hands of the departmental authorities takes an unduly long time. That is so on account of the fact that no attention is ordinarily bestowed over these matters and they are not considered to be governmental business of substance. This approach has to be deprecated and authorities on whom power is vested to dispose of appeals and revisions under the Service Rules must dispose of such matters as expeditiously as possible.** Ordinarily, a period of three to six months should be the outer limit. That would discipline the system and keep the public servant away from a protracted period of litigation.


PARA-20. We are of the view that **the cause of action shall be taken to arise not from the date of the original adverse order but on the date when the order of the higher authority where a statutory remedy is provided entertaining the appeal or representation is made and where no such order is made, though the remedy has been availed of, a six months' period from the date of preferring of the appeal or making of the representation shall be taken to be the date when cause of action shall be taken to have first arisen.** We, however, make it clear that this principle may not be applicable when the remedy availed of has not been provided by law. **Repeated unsuccessful representations not provided by law are not governed by this principle.**


PARA-21. It is appropriate to notice the provision regarding limitation under S. 21 of the Administrative Tribunals Act. Sub-section (1) has prescribed a period of one year for making of the application and power of condonation of delay of a total period of six months has been vested under sub-section (3). The Civil Court's jurisdiction has been taken away by the Act and, therefore, as far as Government servants are concerned, Article 58 may not be invocable in view of the special limitation.

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In view of the above, while deprecating the action of the Respondent No. 2 for the delay in disposal of the representation of the applicant, without entering into the merit of the matter, we dispose of this OA, at this admission stage, with a direction to the Respondent No. 2 to consider and dispose of representations of the Applicant filed under Annexures- 3, 4 and 5 by a reasoned and speaking order and communicate the same to the applicant within a period of 60 days from the date of receipt of a copy of this order and if after such consideration it is found that the applicant is entitled to the benefits claimed by him, then the same may be paid/granted to him within a period of 45 days therefrom. There shall be no order as to costs.

5. As agreed to by Ld. Counsel for both the sides, copy of this O.A., along with the copy of this order, be transmitted to Respondent Nos. 1 and 2 by Speed Post at the cost of the applicant, for which Mr. Nayak, Ld. Counsel for the applicant, undertakes to furnish the postal requisites by 06.05.2014. Free copies of this order be given to the Ld. Counsel for both the sides.


(R.C.MISRA)
MEMBER (Admn.)


(A.K.PATNAIK)
MEMBER(Judl.)

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