

3- CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. NO. 260/00829 OF 2014
Cuttack, this the 21st day of November, 2014

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

.....

Tapan Kumar Nayak,
aged about 48 years,
S/o. Late Kangali Charan Nayak,
At/PO- Patia, Dist- Khurda
Presently working as Casual Mazdoor
In the office of SRORMS, Northern Division,
Bhubaneswar, Dist- Khurda.

...Applicant

(Advocates: M/s. S. Pattanaik, S.R.Nayak)

VERSUS

Union of India Represented through

1. Secretary-cum-Director General of Posts,
Ministry of Communication,
...-Dak Bhawan, Sansad Marg,
New Delhi-110001.
2. Chief Post Master General,
Odisha Circle, At/PO-Bhubaneswar,
Dist-Khurda.
3. Sr. Superintendent RMS,
Northern Division, Cuttack.
At/PO/Dist- Cuttack.

...Respondents

(Advocate: Mr. G. Singh)

.....

O R D E R (ORAL)

R.C.MISRA, MEMBER (ADMN.) :

Heard Sri. S. Pattanaik, Ld. Counsel for the applicant, and Sri. G. Singh, Ld. Addl. Central Govt. Standing Counsel appearing for the Respondents and also perused the records.

2. The applicant has approached this Tribunal with a prayer that the Respondents may be directed to treat him as a full time casual worker w.e.f. the year 1994 in the Department of Posts having due regard to the instruction and



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clarification issued by the Department on 17.05.1989. His further prayer is that the relief which has been allowed in O.A. No. 227/2011 by the Tribunal vide order dated 08.05.2012 may be extended in favour of the applicant. It is the case of the applicant's counsel that the O.A. No. 227/11 was filed by similarly placed casual mazdoors working under the Department of Posts. The Tribunal after hearing the matter and their prayer for absorption in Group-D posts passed the following orders on 08.05.2012:

- “(i) To treat the applicants as part-time casual labourer from 1994 having due regard to instructions/clarification issued by Department of Posts vide letter dated 17.05.1989.
- (ii) To examine whether the applicants could be made full time by readjustment or combination of duties as per stipulation in DI Dept. of Posts letter dated 16.09.1992.
- (iii) To examine whether the applicants have served for 480 days in a period of 2 years so as to treat them, for the purposes of recruitment, to have completed one year of service as full time casual labourers, as per Department of Posts vide letter dated 17.05.1989.
- (iv) Accordingly, rank them in priority at Sl. No. (iii) as has been indicated in letter dated 28.1.2011 (Annexure-A/6).

The entire exercise shall be completed within a period of 120 days from the date of receipt of this order.”

3. The Respondents filed a writ application challenging the orders of the Tribunal dated 08.05.2012 in the Hon'ble High court of Orissa. The Hon'ble High Court of Orissa after hearing the matter dismissed the writ application and confirmed the orders of the Tribunal.

4. The applicant's Counsel further submitted that the 15 casual mazdoors, who had preferred the O.A. No. 227/11 have already been granted the benefits as prayed for. However, the applicant due to financial reasons could not



approach the Tribunal along with the similarly placed 15 employees, who were the applicants in O.A. No. 227/11. Therefore, his prayer is that he being ^a ~~the~~ similarly situated person should be given the same benefits.

5. However, I find that the applicant has not exhausted the departmental remedy as provided for under Section 20 of the Administrative Tribunals Act. If he claims to be ^a ~~the~~ similarly situated person as those who got the relief on the basis of the orders of the Tribunal as confirmed by the order of the Hon'ble High Court of Orissa, it was then his duty to first put forth his claims before the Respondent-authorities praying for the relief. On the other hand, he has directly approached the Tribunal praying for the same.

6. On being confronted with these facts, Ld. Counsel for the applicant prayed liberty from the Tribunal to make a representation before the appropriate authority to claim the relief first. In this regard, I have heard Ld. Counsels for both the sides and I dispose of this O.A. with observation that if the applicant makes a representation within a period of 15 days of receipt of copy of this order to the Respondent-authorities, they ^{shall} ~~may~~ dispose of the same as per the extant rules and regulations within a period of another three months from the date of submission of the representation by the applicant.

7. With the aforesaid observation and direction, this O.A. stands disposed of, at the stage of admission itself.

8. Copy of this order be sent to the Respondents, by Speed Post, at the cost of the applicant, for which Mr. Pattanaik, Ld. Counsel for the applicant, will file the postal requisites by 26.11.2014.



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