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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 260/00845 of 2014
Cuttack, this the 25th day of March, 2015

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

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Suresh Mendli,
aged about 34 years,
S/o Radha Ballav Mendli,
Permanent resident of At-Garupanga, PO- Raxa,
PS- Birmaharajpur, Dist- Sonepur,
Previously working as Daily Rated Mazdoor, (Driver),
At- Office of the Sub-Divisional Engineer,
Bolangir OFC (Maintenance), At/PO/Dist- Bolangir.

...Applicant

(Advocates: M/s. S.K.Mishra, S.S.Sahoo)

VERSUS

Union of India represented through

1. Chairman-Cum-Managing Director,
Bharat Sanchar Nigam Ltd,
Sanchar Bhawan, 20-Ashok Road,
New Delhi-110001.
2. Chief General Manager,
Bharat Sanchar Nigam Ltd.,
Easter Telecom Region,
7th Floor, Telephone Bhawan, ,
34 BBD Bag, Kolkata-700001.
3. Deputy General Manager,
Microwave (Maintenance),
ETR, Microwave Camp, Unit No. VIII,
Bharat Sanchar Nigam Ltd.
Bhubaneswar-751012, Dist. Khurda.

... Respondents

(Advocate: Mr. S.B.Jena...)

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O.A.No. 260/00845 of 2014
S. Mendli Vs UOI**ORDER****A.K.PATNAIK, MEMBER (JUDL.):**

Facts of the case as reveals from the O.A. are that the applicant joined as Daily Rated Mazdoor (DRM in short) under the Management of Microwave (Project) in the year 1997. The Orissa Telecom Microwave Mazdoor Sangha, a registered Trade Union under the Trade Union Act, 1928, of which the applicant is stated to be a member, raised an Industrial Dispute for grant of temporary status and regularization of its members/workers. In the year 1999 a reference was made by the Government to the Industrial Tribunal, Bhubaneswar for adjudicating the matter of conferring temporary status on the Daily Rated Mazdoors and their regularization, which was registered as I.D. Case No. 82 of 1999. On formation of Central Govt. Industrial Tribunal-Cum-Labour Court, it was renumbered as TRID Case No. 268 of 2001. On 19.05.2003 an award was passed in the said case directing Respondent No. 3 to confer temporary status on the concerned workmen and absorb them permanently as and when vacancy arises. Respondents challenged the aforesaid order before the Hon'ble High Court, which upheld the award passed in the aforesaid TRID case. Writ Appeal of the Respondents was also dismissed by the Hon'ble High Court of Orissa vide Annexure-A/1 dated 07.11.2008. Respondents approached the Hon'ble Apex Court challenging the order passed by the Hon'ble High Court. The Hon'ble Apex Court as an interim measure directed to work out the judgment of the Hon'ble Orissa High Court vide Annexure-A/3. Subsequently, Respondent No.3 issued Office Order dated 02.12.2009 (Annexure-A/4) conferring temporary status on 150 Daily Rated Mazdoors (DRMs).

2. The applicant has submitted that he had joined as Daily Rated Mazdoor under the Management of Microwave (Project) in the year 1997. Subsequently, in year 2001 he was asked to work under the ETR, Microwave



(Maintenance) and as he knew ~~the~~ driving, he was driving the vehicles of BSNL since 2002. His grievance is that though vide order dated 02.12.2009 under Annexure-A/4 150 DRMs have been conferred with temporary status, the same has not been granted to him and 6 other similarly placed workmen on the ground of absence of their names in the list appended to the order of reference. It has been submitted that similarly placed workmen, viz. Punia Sahoo & 5 others filed O.A. No. 367/10 before the CAT, Cuttack Bench, which was disposed of vide order dated 10.11.2010 (Annexure-A/7) directing that the Respondents should examine the case of each of the applicants with reference to the decision of the Industrial Tribunal confirmed by the Hon'ble High Court of Orissa and grant them appropriate relief as has been granted to others. Respondents challenged the aforesaid order before the Hon'ble High Court of Orissa but the same was dismissed. Subsequently, the applicant approached this Tribunal in O.A.No. 758/12 praying therein to direct the Respondents to confer temporary status on him w.e.f. the date his juniors and similarly placed DRMs were conferred with the temporary status with a further prayer to allow him to work in the post and place where he was working at that point of time till conferment of such temporary status and to pay him his unpaid salary for period from January, 2010 till June, 2010. He has further submitted that during pendency of the O.A. Respondents had disengaged him from the post in which he was working since 1997-98, for which a Contempt Proceeding has also been filed before the Tribunal. Vide order dated 22.11.2012 in O.A. No. 758/12, this Tribunal directed Respondent No.3 to consider the representation within two months and to maintain the status quo of the applicant till a decision is communicated to him. In pursuance of our order, the Respondents considered the representation of the applicant and rejected the same

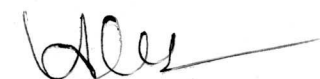
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vide order dated 31.01.2013 under Annexure-A/14. Being aggrieved, the applicant has filed this O.A. praying for the following reliefs:

- “ (i) To quash the communication made by the Respondent No.3 as at Annexure A/14.
- (ii) To direct the Respondents to confer temporary status on him from the respective date on which the TSM status was conferred on the juniors or similarly placed Daily Rated Mazdoors in terms of the TSM Scheme, DOT Orders, Award of the CGIT in TRID Case No. 268 of 2001 and the confirming judgments of the Hon'ble High Court of Orissa passed in W.P.(C) No. 9101 of 2003 and W.P.(C) No. 14715 of 2011, within a time frame and to pay him all consequential benefits which flows out of the same;
- (iii) Necessary directions may kindly be given to the Respondent No.3 to allow the applicant to work in the post and place where he was working till 25.12.2012, till conferment of such temporary status and to pay his salary uninterruptedly, including salary for the period he was illegally disengaged.
- (iv) To direct the Respondents, more particularly Respondent No.3 to pay him his unpaid salary for the period from January, 2010 till June 2010;
- (v) Any other appropriate order.....”

3. We find from the record that the prayer of the applicant revolves around the orders passed by the Central Govt. Industrial Tribunal-Cum-Labour Court in TRID Case No. 268 of 2001 and the subsequent interim order dated 08.05.2009 passed by the Hon'ble Apex Court in SLP (Civil) No. 9790 of 2009. Since the applicant wants the benefit of the ^{Orders of the} Labour Court, in our considered view, the prayer made in the O.A. is not maintainable before this Tribunal. Accordingly, the O.A. stands dismissed being not maintainable. No costs.


(R.C.MISRA)
Member (Admn.)


(A.K.PATNAIK)
Member (Judl.)