

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. No. 260/00805 OF 2011
Cuttack, this the 25th day of January, 2018

CORAM
HON'BLE MR. S. K. PATTNAIK, MEMBER(J)
HON'BLE DR. M. SARANGI, MEMBER (A)

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Sri Bhaskar Chandra Nanda,
aged about 45 years,
Son of Late Golak Chandra Nanda,
resident of At-Kesharpur, Post-C.R.R.I,
Cuttack, Dist- Cuttack, PIN- 753006
presently working as Sweeper of Chhatra Bazar, S.O.,
Post-College Square, Cuttack-753003.

...Applicant

(By the Advocate-M/s. B. Routray, D. Routray, S. Das,
S. Jena, S. K. Samal)

-VERSUS-

Union of India Represented through

1. Chief Post Master General, Orissa Circle, At/Po- Bhubaneswar,
Dist- Khurda, PIN-751001.
2. Sr. Superintendent of Post Office, Cuttack City Division, At-P.K.
Parija Marg, Po-Cuttack, G.P.O, Dist-Cuttack PIN-753001.

...Respondents

(By the Advocate- Mr. S. K. Patra)

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O R D E R

S. K. Pattnaik, MEMBER (J):

The applicant has filed this O.A. praying for quashing of the order dated 09.05.2011 (Annexure-4) issued by Respondent No.2 and to direct the Respondents to regularize his service against any Group-D post

with all consequential service benefit as per the circular of the Department dt. 19.01.2000 (Annexure-3).

2. Shorn of unnecessary details, the case of the applicant in brief runs as follows:

Applicant was appointed as a part time casual labourer in Chhatrabazar Sub-post Office in account with College Square S.O. vide Annexure-1 and he is working as such since November, 1994. The applicant has claimed that prior to his engagement as casual labourer (Sweeper), he worked in various ED/GDS Posts on daily wage basis. His grievance is that even if he has passed the HSC examination and has rendered more than 16 years of service as casual labourer and though several GDS and Group 'D' posts are lying vacant, his services has not been regularized as per G.I. Dept. of Per. & Trg., O.M. No. 49014/2/2000-Estt. (C) dated 19.07.2000 (Annexure-3), which stipulates that "25% of the vacancies in the cadre of Peons to be reserved for being filled by transfer from Sweeper, Farash etc, who have put in minimum of 5 years of service and who may not be possessing the qualification prescribed for direct recruitment...". Pursuant to the above Instruction, the Department of Personnel and Training vide Directorate Letter dated 21.11.2000 requested all the Ministry/Department to give details about the casual employees. It has been submitted by the applicant that he is one of the senior most Sweeper to be absorbed under 25% quota as per the scheme framed by the Department. Earlier also, there was a scheme known as Casual Labourer (Grant of Temporary Status &

Regularization) Scheme for granting temporary status to the part time casual labourers and, basing upon that, benefits have been granted. According to the applicant, though several notifications are issued to fill up the vacant GDS posts, genuine case of the applicant is being ignored. Relying on the decision of CAT Ernakulam Bench in the cases filed by Ms. C.C. Sasikala and Mr. V.V.Martin in O.A. Nos. 1139/1998 and 101/1999 respectively, applicant submitted that when a casual labourer is interested to work in any EDA/GDS post then there is no justification to issue public notification. His grievance is that although there are circulars to consider his case for regularization but the Respondent No.2 is not considering the same in its proper perspective.

3. The applicant being aggrieved had earlier filed O.A. No. 128/2011 with prayer to direct the Respondents to regularize his services keeping in view various circulars and decision of the CAT Ernakulam Bench. The Tribunal vide order dated 14.03.2011 directed to consider the applicant's representation in terms of the circulars/orders referred by the applicant. Respondent No.2 considered and rejected his case vide order dated 09.05.2011 (Annexure-4). Applicant's grievance is that while rejecting his case the circulars/decisions relied upon by the applicant was not taken into consideration.

4. Respondents have filed their counter refuting the prayer made by the applicant. The main prank of their argument is that the applicant was never engaged as a full/part time casual labourer in the Department. He was engaged by the Sub Post master purely on

temporary basis for housekeeping job like sweeping at Chhatrabazar P.O. on as and when required basis and for such temporary engagement he was paid from contingency by the concerned S.P.M. Since there is complete ban on the engagement of full/part time casual labourer on or after 30.11.1989, the engagement of the applicant as casual labourer in the Department does not arise at all. As per DG Posts letter dated 06.06.1988 (Annexure-R/1), part/full time casual labourers recruited through Employment Exchange at the time of initial engagement can only be given preference in recruitment to Group 'D'/ GDS posts. Since the applicant was neither recruited through Employment Exchange nor was appointed as a casual/contingent paid employee in the Department after following due procedure for such appointment, he is not fulfilling any eligibility criteria for absorption in Group-D/GDS post. In pursuance of the order of this Tribunal in O.A. 128/2011, his case was duly considered in accordance with the Rules but could not be found eligible/fit for regularization. Respondents have submitted that Annexure-3, as relied by the applicant, is applicable for the Sweepers, Farash etc. who are already in the service of the Government after being recruited through the Employment Exchange and have come under due recruitment process. The Rules and cases cited by the applicant are applicable to those casual labourers who are already in the service of the Government after being recruited through the Employment Exchange and have come under the due recruitment process. Respondents have pleaded that the O.A. is devoid of any merit.

5. Coming to the merit of this case, it is reiterated at the outset that this Tribunal can interfere with an impugned order only when it is passed illegally or without any basis. The impugned order dated 09.05.2011 (Annexure-A/4) has been passed keeping in mind the departmental guideline and there is nothing wrong calling for our intervention. Applicant did not fulfill the requisite criteria for his regularization as per Rule. Hence ordered.

6. The O.A. being devoid of merit is dismissed. No costs.

(M. SARANGI)
Member (Admn.)

(S.K.PATTNAIK)
Member (Judl.)

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