

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO.260/1105/2014 OF 2014
Cuttack, this the 09th Day of July, 2018

Pandav Palei Applicant

Vs.

Union of India & Others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not?

(DR.MRUTYUNJAY SARANGI)
MEMBER(A)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.260/1105/2014 OF 2014

Cuttack, this the 09th Day of July, 2018

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HON'BLE DR. M. SARANGI, MEMBER (A)

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Pandav Palei, aged about 44 years, Son of Late Sapana Palei, of Village-Parvatipur,
Po-Khadipada, PS-BaseliSahi, Puri, Dist-Puri

...Applicant

(By the Advocate- M/s. R. Das, K. Gaya, M. Mohanty)

-VERSUS-

Union of India Represented through

1. Secretary, Ministry of Culture, Govt. of India, C. Wing, Sastri Bhaban, New Delhi-11001.
2. Director General, Archeological Survey of India, Janpath, New Delhi-11, Pin-110011.
3. Superintending Archeological, A.S.I. Bhubaneswar Circle, Tosali Apartment, Satya Nagar, Bhubaneswar, Dist-Khurda-751007

...Respondents

(By the Advocate- Mr. S. Behera)

ORDER

DR. M. SARANGI, MEMBER (A)

The applicant was working as a casual labour under Respondent No.3 and was allowed 1/30th status of basic pay with usual D.A. as permissible vide order dated 30.6.1994. He claims that in October, 1999, he suffered from jaundice for which he submitted a leave application(A/3), but his leave was not granted. He also claims that after his recovery from jaundice he submitted a joining report on 30.01.2000, but it was not accepted nor was he allowed to resume duties. He also claims that he submitted a representation to Respondent No.3 on 5.2.2000(A/4) on which no action was taken. He submitted a fitness certificate dated 9.9.2008 and claims that he was allowed to discharge duty from 24.12.2008 and during the month of January, 2009 no salary was paid to him. From February, 2009 he was not allowed to discharge his duties. The Respondent No.3 issued a show cause notice to him on

13.7.2009 regarding his absence from duties for the last eight years to which the applicant submitted his reply on 29.7.2009(A/6 & 7). The Deputy Superintending Archaeologist also called for a Police report regarding criminal involvement of the applicant during his absence from 1999 to 2000. The Superintendent of Police sent a report on 22.10.2009 that no criminal case was pending against the applicant during 1999 to 2000. The applicant not being allowed to join duties submitted a representation on 4.11.2011 (A/9). Since no action was taken on his representation nor was he allowed to resume duty, he had filed an Original Application No.684 of 2012 before this Tribunal. He was permitted by this Tribunal to withdraw the said O.A. with liberty to submit a fresh representation. The applicant accordingly submitted a representation dated 19.5.2014 which was disposed by the Superintending Archaeologist (Res.No.3) by his order dated 16.6.2014 which reads as under:

“The representation submitted by the applicant/Sri Pandava Pallei dated 19th May-2014 in view of the direction of Hon’ble Central Administrative Tribunal in its order dated 8th May-2014, has been considered and rejected due to the following valid grounds.

Since the applicant/Sri Pallei has not reported for work at site for more than 12 years without information, his case for re-engaging/allowing to work as a casual worker with 1/30th wages of Group “D” can not be considered and therefore rejected”.

2. The applicant has challenged the impugned order dated 16.6.2014 rejecting his representation and has prayed for the following reliefs:-

- “(a) Let the order dtd 16.06.2014 passed by the respondent No.2 be quashed.
- (b) Let the respondents may be directed to allow the applicant to resume his duty, at Lord Jagannath Temple, Puri.
- (c) Let any other order/orders be passed as the Hon’ble Tribunal deems fit and proper. ”

3. The applicant has based his prayer mainly on the ground that although he was working as a casual labour with 1/30th status and had submitted a joining report after

recovery from his illness, the respondents are unjustified in not allowing him to resume duties.

4. Respondent No.3 in his reply filed on 9.9.2015 has challenged the claim of the applicant for resumption of work. According to Respondents although the applicant was conferred status of a casual worker with 1/30th status vide order dated 30.6.1994, he remained absent for a long period without informing his controlling officer. A show cause notice was issued to him on 13.7.2009. The reply received from the applicant was not satisfactory and therefore, a detailed inquiry was held by Respondent No.3 through the Deputy Superintending Archaeologist. Although the Superintendent of Police, Puri in his letter dated 22.10.2009 reported that the applicant was not involved in any criminal case or political case between 1999-2000, the Superintendent of Prisons, Puri informed in his letter dated 19.11.2009 (Annexure-R/3) that the applicant was in jail as a convict for the period from 19.6.1997 to 18.8.1997 and was released after completing his sentence. It is the respondents' contention that since the applicant was booked under criminal activities he could not be allowed to work in public establishment. Moreover, the persons with 1/30th status are given work only when there is requirement at the site. Since the applicant did not report for duty for many years and was absconding from work, the O.A. does not deserve consideration and should be dismissed as devoid of merit.

5. The applicant in his rejoinder dated 15.11.2016 has submitted that he had submitted his joining letter on 30.1.2000, but the respondents have suppressed the fact. He therefore is entitled for resumption to duty.

6. I have heard the learned counsels from both the sides and perused the documents submitted by them. Despite conferment of 1/30th status the applicant had

not been regularized. Although he has annexed a joining report dated 30.1.2000 (A/4), there is no acknowledgement stamp from the Office of respondent No.3. The applicant had also filed O.A.No.846 of 2012 before this Tribunal without ventilating his grievance before the departmental authorities. Although he claims that he had submitted a representation on 5.2.2000, there is no acknowledgement of receipt of this representation nor there is any record to show that he was allowed to join duties on 24.12.2008 as claimed by him in Para-4.D of the O.A.

7. Considering all the facts of the case and the points of law involved, I find no reason to interfere in the order dated 16.06.2014. The O.A. is devoid of merit. Accordingly, the O.A. is dismissed with no order as to costs

(DR.MRUTYUNJAY SARANGI)
MEMBER(A)

K.B.