

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

O.A. No. 979 of 2014

**Present: Hon'ble Mr. Gokul Chandra Pati, Member (A)
Hon'ble Mr. Swarup Kumar Mishra, Member(J)**

Mr. K. Satyanarayan Murty, aged about 54 years, S/o-Late Visweswar Rao, Presently working as Skilled Work Assistant, Eastern Rivers Division(Hqs.), Central Water Commission, Bhubaneswar, Dist-Khurda a resident of Hut Bazar, Bachara Road, Plot No. 330(P), P.O. Jatnai Khurda Railway, Station, Dist-Khurda.

.....Applicant

-Versus-

1. Secretary to Govt. of India, Ministry of Water Resources, Shram Shakti Bhawan, Rafi Marg, New Delhi-110001.
2. Central water Commission, represented through its Chairman, CWC, Sena Bhawan, R.K. Puram, New Delhi-110066.
3. The Chief Engineer, M&ERO, CWC, Plot No.-A-13 & 14, Bhoinagar, Bhubaneswar-751022.
4. Superintending Engineer, Central Water Commission, Eastern River Division, Plot No. A 13/14, Bhoinagar, Bhubaneswar-751022.
5. Executive Engineer, CWC, Eastern River Division, Plot No. A/13 and 14, Bhoinagar, Bhubaneswar-751022.

.....Respondents

For the Applicant : Mr. S. Patra-1

For the Respondents: Mr. J. K. Nayak

Heard & reserved on: 08.04.2019

Order on:

O R D E R

Per Mr. Gokul Chandra Pati, Member(A):

The O.A. No. 979/2014 has been filed under section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

“ A. Order dated 11.07.2014 under Annexure-A/7 be quashed. Respondents be directed to regularise the services of the applicant w.e.f. 13.11.1985 with all other services and monetary benefits.

B. Respondents be directed to count his period of seasonal Khalasi and Adhoc Khalasi (89 days basis) for the period 01.08.1981 to 31.10.1985 for benefit of Gratuity and MACPs.

C. Any other order or orders may be passed giving complete relief to the applicant in the interest of justice and equity. ”

2. The applicant is aggrieved by the order dated 11.07.2014(Annexure-A/7), rejecting the representation of the applicant for regularization of service from 13.11.1985 to 07.05.2009 while similar benefits have been granted to other employees similarly placed as the applicant. It is stated that the applicant

claims to have worked as Adhoc Kahalasi (Work Charged) from 13.11.1985 till 24.01.1991 when his services were terminated. After the applicant's services were terminated, the applicant along with other employees filed OA No. 27/1991, in which the respondents were directed to consider the case of the applicant in the light of the order of Hon'ble Supreme Court and till then the applicant with other petitioners should be employed as Work Chaged Khalasi. Respondents had challenged the said order in the Hon'ble High Court in a Writ Petition, which was dismissed. In the SLP, Hon'ble Supreme Court remanded the matter back to Hon'ble High Court. Thereafter Hon'ble High Court vide order dated 21.02.2007 (Annexure-A/3) directed the respondents to consider absorption of the applicant as per the seniority list as and when his turn comes. Vide order dated 08.05.2009 (Annexure-A/4) the applicants were absorbed in regular establishment. Accordingly the applicant has joined the duty on 08.05.2009 on probation and on 16.11.2011(Annexure-A/5), the applicant along with others were appointed on regular basis after completion of probation period of 07.05.2011.

3. Thereafter, the applicant submitted representations dated 10.09.2013 and 19.03.2014 before the Respondent No.4 to consider his Adhoc service between the 01.08.81 and 31. 10.1985 for gratuity benefits, MACPs etc and to regularise of his services w.e.f. 13.11.1985 instead of 08.05.2009 and to refix his seniority with all consequential benefits. However, no action was taken in the said representation of the applicant, then the applicant files OA No. 539/2014 which was disposed of on 10.07.2014 by this Tribunal with direction to respondents to consider the applicant's representation. Accordingly, the representation was rejected vide order dated 11.07.2014(Annexure-A/7).

4. The applicant has urged following grounds in favour of the OA.

(a) Similarly placed employees were regularised w.e.f. their initial appointment on adhoc basis vide order dated 13.11.2013 (Annexure-A/8) in compliance to the order of this Tribunal in OA filed by those employees. But similar benefit has been denied to the applicant, which is the violation of the Article 14 and 16 of the Constitution of India.

(b) The order dated 11.07.2014(Annexure-A/7) is bad in law and is based on conjecture and surmises

5. Respondents have filed their counter stating that the respondents have disposed of the applicant's representation prior to receipt of the order dated 10.07.2014 of this Tribunal on the ground that adhoc service of the applicant was terminated on 24.01.1991 and other employees acted by the applicant, were appointed as regular Khalasi on compassionate ground. Therefore, the claim of seniority of the applicant to be above those employees, who were regularly appointed before the applicant, is not admissible. Further, it is

stated that the persons covered in the order at Annexure-A./8 were appointed by adhoc-basis as per the directions of the Tribunal in OA No. 363/2008 and therefore the case of the applicant is different from the case of the employees mentioned in Annexure-A/8. It was stated that after the termination of the service of the applicant w.e.f. 24.01.1991, the applicant joined as Seasonal Khalasi, as the seniority list of 1997 shows(Annexure-R/1).

6. Rejoinder has been filed by the applicant in which no new point apart from the points in the OA, was advanced.

7. Wee have heard learned counsels for both the sides and also perused the pleadings on record. The applicant has claimed that the was engaged adhoc basis w.e.f. 13.11.1985. But no document has been produced in support of the claim. Further, it is undisputed that his services were terminated on 24.01.1991. Thereafter, the applicant challenged the termination in the Tribunal. The respondents have stated that he was re-engaged in 1996 as a seasonal Khalasi has not been denied or contradicted by furnishing any document to the contrary.

8. In view of the above facts, since the applicant was not in service from 1991 to 1996, the claim of regularization w.e.f. 13.11.1985 is not tenable. Further, the service period prior to the break in service from 1991 to 1996 cannot be taken into consideration for the purpose of DCRG. The applicant has failed to substantiate his claim by producing documents or rules/ circulars in support of such claims made by the applicant.

9. Therefore, we are unable to agree with the arguments by learned counsel for the applicant and to consider to allow the reliefs sought for in the OA, which is liable to be dismissed. Accordingly, the OA is dismissed with no order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER (J)

(GOKUL CHANDRA PATI)
MEMBER (A)

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