

(2005) 01 OHC CK 0038

In the Orissa High Court

Case No : Original Jurisdiction Case No. 6273 of 2000

Ramesh Chandra Panda

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 17-01-2005

Acts Referred:

Citation : (2005) 99 CLT 749 : (2005) 106 FLR 283

Hon'ble Judges : P.K. Tripathy, J;P.K. Mohanty, J

Bench : Division Bench

Advocate : R.K. Rath, K.P. Mishra, J.K. Khandayatray and S. Dash, for the Appellant; A. Mohanty, J. Sahu, H.K. Tripathy and M.K. Rout, (For O.P. No. 4), for the Respondent

Final Decision : Dismissed

Judgement

P.K. Mohanty, J.—The petitioner assails the Order dated 22.5.2000 passed by the Central Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No. 84 of 1998 rejecting his prayer for a direction to the opposite parties to give him an appointment in accordance with his educational qualification and experience as a casual labourer under the administrative control of the Railway Recruitment Board with effect from the date similarly situated candidates were regularized.

2. The brief fact of the petitioner's case is that he was working as a casual labourer under the administrative control of the Railway Recruitment Board, Bhubaneswar with effect from the year 1985. While continuing as such, Opposite Party No. 1 on the basis of the representation submitted by the South Eastern Railway Men's Union advised Opposite Party No. 2 to absorb/engage the discharged casual labourers who were continuing on or before 1991 under the Railway Recruitment Board. The petitioner submitted a representation before Opposite Party Nos. 2 and 3 on 10.1.1991 praying therein for regularization of his services which was duly forwarded by the Chairman. A list was prepared for regularization of the services of casual labourers in which the petitioner's name found place at Serial No. 35. A copy of the list is at Annexure-2. The Member-

Secretary of the Railway Recruitment Board forwarded the application of the petitioner along with others to Opposite Party No. 2 for regularization. Some of the casual labourers were regularized but the case of the petitioner was not considered. On 26.6.1992, the Chairman of the Railway Recruitment Board informed Opposite Party No. 2 that the screening for regularization should be conducted by taking assistance from one of the officers of Railway Recruitment Board because some fake candidates might have been included in the list and it was stated that the name of the petitioner and his continuance as a casual labourer was also doubtful because he could not reply properly to the questions posed and the signature of the then Chairman, Dr. Harihar Patnaik, also did not tally with the signature available in the working certificate. Opposite Party No. 2 in his letter to the Chairman-Opposite Party No. 4 requested him to examine the relevant papers available in his office and intimate the same for consideration of the petitioner's case for regularization, copy of which is Annexure-3 to the Writ Petition. It is averred that due to some discrepancies and non-availability of records, the petitioner could not be regularized even though other candidates who were junior to him were regularized in their respective posts. The Chairman, Railway Recruitment Board on 25.11.1993 clarified the position of the petitioner and intimated the Opposite Party No. 2 to treat the petitioner as a casual labourer and take further action. But inspite of the aforesaid letter, nothing has happened. The petitioner's representation personally or through Union to regularize him in service went in vain. The petitioner filed O.A. No. 84 of 1998 praying for a direction to Opposite Party No. 3 to give him appointment like the similarly situated persons who were appointed on regular basis under the Railway Organization.

3. The opposite parties have filed their counter disputing the claim of the petitioner. It was urged that the petitioner could not produce any records in support of his claim that he was working as a casual labourer under the Railway Recruitment Board. The petitioner in his reply asserted that all records were/are available with the opposite parties and no documents have been supplied to him and hence the question of producing them did not arise. The Learned Central Administrative Tribunal, however, on consideration having rejected the Original Application, the present Writ Petition has been filed.

4. The learned Tribunal taking into consideration the letter of the Chairman, Railway Recruitment Board dated 26.6.1992 that the signature in the certificate given by the Chairman to the petitioner does not tally with the signature available in the records and the report of the Senior Divisional Personnel Officer that the relevant registers like Attendance Register, Daily Casual Labourers Attendance Register and Register for payment to casual labourers did not contain the petitioner's name, came to find that the contention of the petitioner that he worked for more than one year as casual worker in the Railway Recruitment Board was not acceptable. The Learned Tribunal has held that in absence of any record showing payment to the petitioner as a casual labourer, simply on the certificate of the then Chairman given after he demitted office that the applicant

had worked for some time from 1.8.1985 to 31.7.1986, his case rightly has not been considered. Further, the observation of the next Chairman that on the basis of the certificate given by the earlier Chairman, the case of the petitioner should be considered as a retrenched casual labourer of the Railway Recruitment Board was also not acceptable. In absence of any document and in view of the fact that the petitioner's name was not borne out from the attendance register for casual labourers and the payment register to casual labourer during the relevant year 1985-86, the claim of the petitioner has rightly been rejected.

5. The contention of the Learned Counsel for the petitioner that in view of the fact that the petitioner's name was forwarded by the Chairman, Railway Recruitment Board for regularization of services along with all casual labourers in the list submitted wherein the petitioner's name finds place at Serial No. 35, the authorities ought to have considered the case of the petitioner cannot also be accepted since the relevant registers like the Attendance Register for the casual labourers and the Payment Register showing payments to the casual labourers during the relevant period did not show the name of the petitioner to have either attended work or received payment as a casual labourer. The stand of the opposite parties that the signature of the Chairman, Railway Recruitment Board in the certificate issued in favour of the petitioner prima facie did not tally with the signature of the Chairman available on records of the Railway Recruitment Board also casts a doubt on the genuineness of such certificate in absence of any other supportive documents in favour of the petitioner's engagement during the relevant period.

In such view of the matter, we do not find any merit in the Writ Petition to interfere with the impugned order of the Learned Central Administrative Tribunal passed in O.A. No. 84 of 1998 and accordingly, the Writ Petition is dismissed. However, there shall be no order as to cost.

P.K. Tripathy, J.

6. I agree.