IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.21032 of 2021

Satyaban Biswal

Petitioner

Mr. Kali Prasanna Mishra, Advocate

-versus-

Union of India and Others

Opp. Parties

CORAM: THE CHIEF JUSTICE JUSTICE B. P. ROUTRAY

Order No.

ORDER 29.07.2021

- 1. This matter is taken up by video conferencing mode.
 - 2. This is the second round of litigation concerning the Petitioner's claim for regularization. Earlier the Petitioner, who claims to be working as a part-time contingent paid Waterman-cum-Farash at Nayagarh Head Post Office, Department of Posts filed Original Application (OA) No.1068 of 2014 before the Central Administrative Tribunal (CAT), Cuttack Bench, Cuttack. By an order dated 4th February, 2015, the Tribunal disposed of the said application with a direction that the Senior Superintendent of Post Offices, Nayagarh will consider and dispose of the representation with a reasoned speaking order.
 - 3. Pursuant thereto, on 27th April, 2015 the Senior Superintendent of Post Offices, Puri Division, Puri passed a reasoned order noting inter alia that the Petitioner has been working as above w.e.f. 19th March, 1998. The impugned order notes as under:

"For conferment of temporary status to casual labourer one should be governed by "Casual laborer (Grant of Temp Status and Regulation) Scheme of Government of India 1993" and the Scheme came into force w.e.f. 1.9.1993. The scheme is applicable to those casual laborers who are in the employment on the date of issue of the said order, i.e. 01.09.1993 and Sri Biswal was engaged as part-time worker only on 19.03.1998 and the benefit of grant of Temp Status is not applicable to him.

The representation of Sri Biswal dated 12.03.2014 (Annexure-A-7 of the OA) has been carefully considered by me in letter and spirit in obedience to the order of the Hon'ble Tribunal in OA No.1068/2014 and in backdrop of the discussions made in detail, examining the pros and con of the case as well, Sri Satyaban Biswal is not eligible for conferment of temporary status as per the Rules and Regulations issued by the Department from time to time on the subject. The representation of Sri Biswal is considered and rejected."

- 4. Aggrieved by the above order the Petitioner again filed a fresh O.A. No.539 of 2015 before the CAT, Cuttack. By the impugned order dated 26th April, 2021 the said OA was dismissed.
- 5. Learned counsel for the Petitioner drew attention of the Court to the following observations at para 5:

"It is submitted by learned counsel for the applicant that the respondent has rejected his prayer for conferring of temporary status inter alia on the ground that as per the temporary status 1993 scheme the applicant was not working prior to the cutoff date i.e. 01.09.1993. It is submitted on behalf of the applicant that the said scheme of 1993 is not applicable to department of post and BSNL and therefore rejection of his request for conferring of temporary status on the ground that the applicant is not coming within the cutoff date of the said scheme

of 1993 is completely wrong and shows non application of mind by the authorities."

6. The Court notes that the above submissions have been considered by the CAT in the impugned order and it has been observed as under:

"The applicant has not been able to show that there is any other scheme under which he can be conferred with the temporary status. He has not cited circulars, rules or citations in his favour for getting the relief in question. The applicant has not been engaged as per the recruitment rules or through any selection process and has also not been engaged against any sanctioned post. Since the applicant is working as part time contingent worker therefore his claim for grant of temporary status cannot be allowed."

- 7. Learned counsel for the Petitioner urged that for the regularization of the Petitioner there was in fact no scheme whatsoever. The Court is unable to agree. As the order dated 27th April, 2021 shows that the Department of Posts has been adopting the same DOPT scheme which is applicable to all departments of Government of India and which came into force w.e.f. 1st September, 1993. Clearly the Petitioner was not already employed as on that date. Therefore, he cannot possibly be regularized under that scheme.
- 8. The Court is unable to find any error having been committed by the CAT in the impugned order.
- 9. The writ petition is accordingly dismissed.
- 10. As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a

printout of the order available in the High Court's website, at par with certified copy, in the manner prescribed vide Court's Notice No.4587, dated 25th March, 2020 as modified by Court's Notice No. 4798, dated 15th April, 2021.

(Dr. S. Muralidhar) Chief Justice

