

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 16177 of 2019

*Subhashree Ranjan Behera &
Others*

.....

Petitioners

Mr. T.K. Mishra, Advocate

Vs.

Union of India & Others

.....

Opposite parties

Mr. P.K. Parhi, A.S.G.I.

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

30.03.2022

Order No.
04.

This matter is taken up through hybrid mode.

2. Heard Mr. T.K. Mishra, learned counsel for the petitioners and Mr. P.K. Parhi, learned Asst. Solicitor General of India appearing for opp. parties no.1 to 3.

3. The petitioner has filed this writ petition assailing the order dated 03.01.2019 passed in O.A. No.521 of 2015 and also order dated 11.04.2019 passed in R.A. No.8 of 2019 by the Central Administrative Tribunal, Cuttack Bench, Cuttack.

4. Mr. T.K. Mishra, learned counsel for the petitioners contended that the petitioners had filed O.A. No.521 of 2015 before the tribunal to quash the order dated 28.09.2015 under Annexure-8 to the original application, and to issue direction to opp. parties no. 2, 3 and 4 to forthwith allow them to be engaged as substitutes and confer upon them full time casual labourer and/or temporary Group-D status with effect from the date of their joining. After due adjudication, the tribunal found that the engagement of substitute GDS is at the risk and responsibility of the incumbents proceeding on leave for personal reasons or to work on higher post in the Department of Posts. Provision of providing substitute GDS is as per Rule-7 of

GDS (Conduct and Engagement) Rules, 2011. Therefore, a question does arise whether the engagement of substitute as such could be termed as part time or full time casual labour, as the case may be. To substantiate the same, the petitioners could not produce any material before the tribunal to indicate that their engagement was the part time or full time casual labourers. Therefore, the tribunal has come to a conclusion, relying upon the judgments of the apex Court in *Loman Fransis & Others Vrs. Union of India* (Civil Appeal No.1394 of 2011), *Sheo Narain Nagar Vrs. State of UP (D.S. Nakara Vrs. Union of India*, AIR 1983 SC 130, that the engagement as substitute GDS is at the instance of the regular incumbents proceeding on leave or for holding higher post in the same Department. Therefore, the nature of engagement of substitute GDS in so far as applicants are concerned, is quite different and distinct from the appointment made through any other source.

5. Having not satisfied with the said order, the petitioner filed R.A. No.260/8/2019 before the tribunal and the same was also dismissed. Therefore, at this stage, this Court is not inclined to interfere with the same. However, liberty is granted to the petitioners to approach the authority concerned, if any cause of action still survives.

6. With the above observation, the writ petition stands disposed of.

(DR. B.R. SARANGI)
JUDGE

Alok/Sukanta

(SAVITRI RATHO)
JUDGE

