

SUPREME COURT OF INDIA

State of Orissa

Vs.

Harihar Satpathy

C.A.No.3659 of 1998

(V. N. Khare and S. N. Phukan, JJ.)

27.04.2000

ORDER

1. Respondent No. 1 herein, was appointed as Chowkidar in the Work Charged Establishment of Government of Orissa on 1-7-1961. Respondent No. 2 was also appointed in the same capacity on 22-12-1965. Respondent No. 3 joined as Mechanic in the Work Charged Establishment in the Irrigation Department of Government of Orissa on 6-11-1961. Subsequently, they retired on different dates viz., respondent No. 1 in the year 1978, respondent No. 2 in the year 1985 and respondent No. 3 in the year 1986. Subsequently, the aforesaid respondents filed an Original Application before the Orissa State Administrative Tribunal with a prayer that they ought to have been absorbed in the regular service in view of the resolution dated 22-1-1965 and if they are notionally absorbed they will be entitled to pension. It appears that the appellants neither contested the said application nor filed any counter affidavit. With the result, the Tribunal accepted the case of the respondents and directed the appellants to give pension. It is against the said judgment the appellants are in appeal before us.

2. Learned counsel for the appellants urged that the posts occupied by the respondents were not brought over to the regular establishment as they were not of permanent nature and, therefore, they could not be granted pension. In the present case, the appellants did not choose to file any counter

affidavit before the Tribunal. The respondents being very petty employees are not represented before us. Therefore, we are not inclined to interfere with the matter leaving the question of law open to be decided in an appropriate case. In view of the special facts and circumstances of the case, we dismiss the appeal. No costs.

Appeal dismissed.