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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

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ORIGINAL APPLICATION No.157 OF 1986

Date of decision .. August 11, 1987.

Hrusikesh Beura .. Applicant.

Versus

Union of India & others .. Respondents.

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M/s Jagannath Patnaik,  
Satyabadi Das and  
Ramanath Acharya, Advocates .. For Applicant.

Mr. A.B. Misra, Sr. Standing  
Counsel ( Central) .. For Respondents

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C O R A M :

THE HON'BLE MR. B.R. PATEL, VICE CHAIRMAN

A N D

THE HON'BLE MR. K.P. ACHARYA, MEMBER ( JUDICIAL)

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1. Whether reporters of local papers may be allowed to see the judgment ? Yes .
  2. To be referred to the Reporters or not ? *yes* .
  3. Whether Their Lordships wish to see the fair copy of the Judgment ? Yes .
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J U D G M E N T

K.P. ACHARYA, MEMBER (J), In this application under section 19 of the Administrative Tribunals Act, 1985, the petitioner claims to be General Assistant in Door Darshan Kendra, Cuttack and his appointment was made on 17.6.1982. According to the petitioner, his services have been terminated on 31.8.86 for which he feels aggrieved and in this application the petitioner prays before this Bench for interference to the extent that the order of termination be set aside .

2. Shortly stated , the case of the petitioner is that he was appointed as a General Assistant in Door Darshan Kendra at Cuttack and as such he was appointed on 17.6.1982. From such date he was continuing in his service and ultimately the concerned authorities terminated the services of the petitioner on 31.3.1986 for no <sup>le</sup> reason or rhyme and therefore the petitioner prays that the order of termination being illegal, unjust and improper should be set aside by this Bench.

3. In their counter , the respondents-Opp. Parties maintained that the petitioner is not a regular employee under the Government. Employment of the petitioner is purely on contractual basis as a casual <sup>one</sup> to do do certain work of the Door Darshan for a limited period and therefore the petitioner cannot claim any redress before this Bench and cannot attract any of the provisions contained under the Administrative Tribunals Act, 1985.

4. We have heard Mr. S.B.Das, learned <sup>Standing</sup> Counsel for the petitioner and Mr. A.B.Misra, learned Sr. <sup>bn</sup>

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Keeping in mind the provisions contained above, the Tribunal has jurisdiction to entertain the grievance of any person in civil service or All-India Service in respect of a civil post and relating to its recruitment and matters concerning the recruitment ; otherwise the Bench has no jurisdiction to act under section 14 of the said Act. In the present case , the petitioner strongly relies upon Annexures-2 and 3 in order to convince this Bench that he was appointed by the Door Darshan to render services to the said institution. On a reading of

Annexure-2 and 3, it would be very clear that the services of the petitioner was purely on contractual basis. In order to appreciate the contentions of both sides, it is worth-while to quote Annexure-2 which runs thus :-

" TELEGRAM: DOORDARSHAN DOORDARSHAN-3  
TABX TELEPHONE No.22071. (See Paragraph 15.7.1)

DOOR DARSHAN KENDRA;CUTTACK

NO.TV/CC/1/82.

Date of first rehearsal.  
Dated the 27th June, 1982.

Dear Sir,

We invite you to take part in the capacity of actor/performer/ producer in the production to be telecast as detailed below upon the conditions printed overleaf. We shall be obliged if you will kindly sign and return the attached confirmation sheet duly completed within three days of the date of this letter.

Title : To work as General Assistant.  
Date : 17th to 31st July ( except 18th, 23rd, & 25th July) = 12 days.

Time of Telecast: xxx

Date of Recording : xxx

Time of Recording : xxx

Duration : xxx

Place of Talecast: Television Cent re, Sambalpur.

Fee: Rs.234.10 (Rupees two hundred thirty four and paise ten only)  
Consolidated and inclusive of all expenses.

The stamp duty will be borne by the Government.

Shri Hrushikesh Beura, Yours faithfully,  
C/o-Shri Bijay Kumar Beura, Sd/-Illegible.  
At- Balisahi, For Director(TV Centre)  
S.C.B.Medical Road,Cuttack.

For & on behalf of the  
President of India "

The facts stated in Annexure-3 are exactly similar to the matters stated in Annexure-2. From the contents of Annexures-2 and 3, we have absolutely no iota of doubt in

our mind to hold that the petitioner was employed purely on casual basis and no regular pay was being given to the petitioner because in both Annexures-2 and 3, it has been mentioned fee : Rs.234.10 and Rs.308.30 respectively for the work to be rendered by him for 12 days and 10 days respectively. From Annexures-2 and 3, it is also patently clear that beyond 10 and 12 days of employment, the services of the petitioner are no longer required. Learned counsel for the petitioner could not show us any other document on the basis of which it could be said that the petitioner was a regular civil servant in regard to a civil post drawing monthly pay from the concerned authorities. The petitioner having failed to place this important thing before this Bench which could have driven us to the conclusion that the petitioner was a regular Government servant, we are very clear in our mind that section 14 of the Act has no application to the facts of the case put forward by the petitioner. In addition to the above, we would find that in Annexure-1, the programme executive Mr. R.R.Misra while granting a testimonial to the petitioner has stated as follows :-

" Certified that Shri Hrushikesh Beura is at present in the existing pannel of GENERAL ASSISTANT ( Casual) at this Kendra, since 15th July, 1982.Casual Booking as a General Assistant to Shri Hrushikesh Beura has been assigned on a regular basis as per rules applicable to staff artists on casual contract both for a specific periods and assignment basis. He is sincere, hardworking and pains taking and capable of doing any such official works xx "

Reliance was also placed by the learned counsel for the

petitioner on Annexure-1 which indicates in clearest terms that the petitioner was a casual employee and was being assigned certain work casually. Such being the position, our view that the petitioner is not a regular servant is reinforced and therefore at the risk of repetition, we would say that we have no doubt in our mind that the petitioner is not a regular servant and therefore section 14 of the Act cannot be attracted. That apart, no termination order has been filed by the petitioner. It was told to us by the learned counsel for the petitioner that verbally the petitioner was asked not to join the work any more. This submission of the learned counsel for the petitioner is purely based on instruction of his client. We cannot but be slow to act upon the oral instructions of a client given to his lawyer, particularly in the absence of any documentary evidence to indicate that factually the termination order has been passed. We had called upon the learned counsel for the petitioner to show the regular appointment order and order of termination of the petitioner. Nothing was shown to us to satisfy the requirement in order to attract the provisions contained under section 14 of the Act. Therefore, we are definitely of opinion that Administrative Tribunals Act, 1985 will have no application to the facts of the present case. It was submitted by the learned counsel for the petitioner that the Supreme Court has deprecated the appointment of casual labourer and in support of this stand, learned counsel for the petitioner relies on a case reported in AIR 1976 SC 1111. This case is clearly

distinguishable on questions of facts and therefore we would not accept the contention of the learned counsel that the present case suffers from the same infirmity as that of the case reported in A.I.R. 1976 S.C. 1111. Next the petitioner's counsel relied on A.I.R. 1986 S.C. 584 to convince this Bench that there has been discrimination in the case of the petitioner in regard to his appointment. We are bound to act on the dictum laid down by Their Lordships of the Supreme Court but in the facts and circumstances of the case, there has been no discrimination meted out to the petitioner and therefore, the judgment of the Hon'ble Supreme Court referred to above has no application to the facts of the present case especially when the employment of the petitioner was intermittent and therefore the assignment on contractual basis ends and/or is automatically terminated by the terms of the contract. Tgirdly, learned counsel for the petitioner relied upon a judgment of Madhya Pradesh High Court, reported in 1985 Labour Indian Case 1382 wherein it has been laid down that the discrimination cannot be made on between daily wage employees and temporary employees. We have no dispute with this proposition of law laid down by Madhya Pradesh High Court but temporary employees appointed by the Government as regular Government servants and persons employed on casual basis to do a particular job for a limited period stand in two distinct categories. Therefore, the said judgment of the High Court of Madhya Pradesh has no application to the facts of the present case.

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5. Lastly it was urged by the learned counsel for the petitioner that the Principal Bench constituted by Hon'ble Chairman and the Hon'ble Member Sri Kausal has pronounced a judgment in which they have depreciated <sup>basis</sup> the employment on casual/with Door Darshan Kendra. Learned counsel for the petitioner couldnot show us the certified copy of the judgment but he relied upon a press report ~~press~~ published in a news paper. Law is well settled that no notice can be taken on matters published in news paper. Hence we do not feel inclined to take notice of the oral submissions of the learned counsel for the petitioner. in this regard.

6. We do not find any merit in the application which stands dismissed leaving the parties to bear their own costs .

*L. G. Roy*  
11/8/87  
.....  
Member ( Judicial)

B.R. PATEL, VICE CHAIRMAN, *I agree.*



*B. R. Patel*  
11-8-87  
.....  
Vice Chairman.

Central Administrative Tribunal,  
Cuttack Bench, Cuttack.  
August 11, 1987/Roy.