

(11)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

ORIGINAL APPLICATION No. 394 OF 1987.

Date of decision .. May 20, 1988.

sri Narottam Pani, son of late Narayan Pani,
aged about 25 years, At/P.O.Kamarapur, Dist- Balasore.

... Applicant.

Versus

1. Union of India, represented by the General Manager,
Telecommunication, Bhubaneswar- 751 001, Dist- Puri.
2. Divisional Engineer, Co-axial Maintenance,
Cuttack- 753 001.
3. Sub-Divisional Officer, Telegraphs, At/P.O/Dist-Balasore
756001.
4. Assistant Engineer, Co-axial, Balasore- 756 001.

... Respondents.

Mr. P.V.Ramdas, Advocate

... For Applicant.

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

... For Respondents.

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 ? No.
 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 prays for commanding the respondents to absorb the petitioner as a casual mazdoor.

2. Shortly stated the case of the petitioner is that in the year 1983 he was appointed as casual mazdoor under the Assistant Engineer, Co-axial Maintenance, Telecommunication, Balasore and he worked as such till 28.2.1986 and from 1.3.1986 to 31.3.1987 the petitioner remained absent and when he submitted his joining report on 1.4.1987, it was not accepted by the competent authority. Hence this application.

3. In their counter, the Opposite Parties maintained that the work of the petitioner was mostly unsatisfactory and he intentionally remained absent from duty from 1.3.1986 as he was carrying on a business of betel selling, shop. Therefore, according to the Opposite Parties, the services of the petitioner was rightly dispensed with and it is further maintained by the Opposite Parties that in view of the insincerity of the petitioner to discharge his duties, the prayer of the petitioner should not be allowed.

4. We have heard Mr. P.V. Ramdas, learned counsel for the petitioner and Mr. A.B. Misra, learned Sr. Standing Counsel for the Central Government at some length. In no circumstances, we can appreciate the conduct of the petitioner especially in view of the fact that the competent authority had written to the petitioner to join his services and the petitioner paid a deaf ear. Even though Mr. Ramdas vehemently



pressed before us that the petitioner is sincere and loyal worker, we cannot express any opinion on this argument because sincerity and loyalty of a particular employee has to be adjudged by his superior authority. On a perusal of the relevant records, we are of opinion that the petitioner had no justification in not giving due response to the competent authority when the said authority had written to the petitioner to join his post. All these circumstances are no doubt tale telling against the petitioner but the only thing which weighs with us is that in these hard days one is toiling and struggling to the maximum capacity for sustenance of his livelihood and to earn his bread and butter. Keeping in mind the aforesaid facts, we feel inclined to take a liberal view of the matter and therefore, we would direct that one more chance be given to the petitioner to discharge the work of a casual mazdoor whenever there is work to be given to the petitioner and we would further say that in case the petitioner is found by his competent authority to be unsuitable or unable to discharge the work sincerely and according to the direction of the competent authority, then the authority concerned would be at liberty to terminate the services of the petitioner.

5. Thus, the application is accordingly disposed of leaving the parties to bear their own costs.

B.R. PATEL, VICE CHAIRMAN,

9 agree.

Central Administrative Tribunal,
Cuttack Bench.
May 20, 1988/Roy, SPA.

[Signature]
20.5.88
.....
Member (Judicial)

[Signature] 20.5.88
.....
Vice Chairman