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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No.91 of 1987.

Date of decision : May 3,1988.

Sri Hemanta Kumar Tripathy, s/o
Chaitanya Charan Tripathy, At-Jajanga,
P.O./P.S.Kendrapara, District-Cuttack.
at present Staff Artist, Instrumentalist,
(Violin Player), All India Raod, Jeypore,
District-Koraput (Orissa). ...

Applicant.

Versus

1. Union of India, represented through
the Secretary, Ministry of Information
and Broadcasting, Government of India,
New Delhi.
2. Director General, All India Radio,
Akashvani Bhawan, Sansad Marg,
New Delhi-110001.
3. Deputy Director General (Eastern Region),
All India Radio, Akashvani Bhawan,
3rd Floor, Calcutta-700 001.
4. Station Director, All India Radio,
At/P.O./P.S. Jeypore, District-Koraput.
5. Smt.K.Bhanumati, Jr.grade Music composer,
All India Radio, Cuttack.

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Respondents.

For the applicant ... M/s .G.Tripathy,
B.N.Tripathy, &
R.K.Nayak, Advocates.

For the respondents ... Mr.Ganeswar Rath, Additional Standing
Counsel (Central)

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 ?
 3. Whether Their Lordships wish to see the fair copy of the
judgment ? Yes.

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 applicant prays to command the respondents to absorb him in the post of Music Composer Junior Grade in the All India Radio, Jeypore, Koraput.

2. Shortly stated, the case of the applicant is that he was working as Instrumentalist (Violin player) being attached to All India Radio stationed at Jeypore and he is continuing as such since 8.7.1976. A test was held to fill up the post of Music composer, Junior Grade and the case of the applicant is that he stood first and appointment letter was issued to him vide Annexure-1 dated 26.10.1981. In reply thereto the applicant addressed a letter to the Station Director, copy of which is contained in Annexure-2, claiming a higher pay scale by way of four increments. The grievance of the applicant is that without giving any reply to the said letter, the concerned authorities have appointed and posted another person who had qualified herself and was placed against serial No.2. Therefore, the applicant has come up with the aforesaid prayer.

3. In their counter the respondents maintained that since the applicant did not join the post which was offered to him, the competent authority had no other option but to appoint the next man in the serial order as it would have been against the interest of the administration to keep the post vacant.

4. We have heard learned counsel for the applicant and Mr. Ganeswar Rath, learned Additional Standing Counsel (Central) at some length. We find from Annexure-2 that after receipt of the offer of appointment vide Annexure-1, the applicant stated

as follows :

" In view of the above facts I have to request you if I am granted 4 advanced increments in the pay scale of Rs.550/-to Rs.900/-I shall join the post obligingly. "

From the above communication it is crystal clear that the applicant made a condition to accept the appointment if four increments are given to him. Ofcourse, learned counsel for the applicant submitted that due to lack in knowledge in English the applicant used the word ^{if} even though he actually did not mean, ^{he} made a condition precedent to accept the offer. We would not like to express any opinion on this but the fact remains that Smt.K.Bhanumati has already been appointed and we cannot dislodge her from the said post. However, it was told to us by learned counsel for the applicant that three other posts (one at Jeypore and two at Cuttack) of the same nature are still vacant and lying at the disposal of the competent authority. We would wish to say that in the peculiar facts and circumstances of the case, a sympathetic view may be taken over the applicant and in case, there are still vacant posts, it should be favourably considered to adjust the applicant in one such posts, if otherwise found suitable.

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

[Signature]
8/5/88
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Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

9 agree.

[Signature]
3.5.88
.....
Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench: Cuttack.
May 3, 1988/S.Sarangi.