

(8)

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH : CUTTACK.

Original Application No. 215 of 1988

Date of decision : April 27, 1989.

Sri Madha Patra, son of Sarathi Patra,  
aged about 32 years, D.R.M. (Casual Mazdoor)  
C/o Asst. Engineer, Trunks, Office of D.E.  
Phones, Telephone Bhawan, At-Bajrakabati Road,  
Cuttack, at present village Singadapalli,  
P.S. Rambha, District-Ganjam(Orissa). ...      Applicant,

Versus

1. Union of India, Telecommunication Deptt.,  
represented through -
2. General Manager, Telecommunication, Orissa  
Circle, Bhubaneswar.
3. Telecom District Engineer, Cantonment Road,  
Cuttack.
3. Sub-Divisional Officer, Phones,  
At- Cantonment Road, Cuttack-1.

...      Respondents.

For the applicant ...      M/s.A.K.Bose,  
P.K.Giri, Advocates.

For the respondents ...      Mr.A.B.Mishra,  
Senior Standing Counsel(Central)  
Mr.Tahali Dalai,  
Additional Standing Counsel(Central).

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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)

1. Whether reporters of local papers may be allowed to  
see the judgment ? Yes.
2. To be referred to the Reporters or not ? *Ans*
3. Whether Their Lordships wish to see the fair copy of the  
judgment ? Yes.

JUDGMENT

K.P.ACHARYA, MEMBER (J) In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays that he may be allowed to continue in service as before as casual mazdoor without any break in service and benefits of service may be granted to him retrospectively since 18.5.1985 with back wages.

2. Shortly stated, the case of the applicant is that he was appointed as casual mazdoor under the District Telecommunication Engineer posted at Cuttack and he joined in July, 1976. On 26.12.1978 vide Annexure-2 his appointment was regularised and on 28.9.1983 the applicant was treated as Category II and was posted under Sub-Divisional Officer, Phones. Thereafter he was transferred to the jurisdiction of the Assistant Engineer, Trunks, Cuttack. On 19th May, 1985 the services of the applicant were terminated as he was involved in a criminal case under section 379 of the Indian Penal Code forming subject matter of G.R. Case No. 1190 of 1985. The grievance of the applicant is that though the applicant has been acquitted by the criminal court yet, despite his representation, the departmental authorities are not reinstating him into service. Hence, this application with the aforesaid prayer.

3. In their counter, the respondents maintained that there is no work to be entrusted to the applicant and there is a ban order of the Government imposed with effect from 30.3.1985 (Annexure-R2) debarring fresh recruit. Hence, the case being devoid of merit is liable to be dismissed.

4. We have heard Mr.A.K.Bose, learned counsel for the applicant and Mr.Tahali Dalai, learned Additional Standing Counsel(Central) at some length. The facts stated in paragraph 2 of this judgment are not disputed. The services of the applicant were terminated because of his involvement in a criminal case which admittedly ended in acquittal vide judgment of Shri C.D.Kar, Judicial Magistrate,First Class, Cuttack in G.R.Case No.1190 of 1985, on 28.1.1987. Therefore, the moot question that needs determination is as to whether the applicant is entitled for reinstatement in view of clean acquittal passed in his favour by learned Magistrate. Law is well settled that once <sup>judgment of</sup> acquittal is recorded in favour of the <sup>accused</sup> applicant, he has a right to be reinstated. To add to all these, we find that no departmental proceeding was initiated against the applicant even after the ~~acquittal~~. such being the situation, we would direct that as and when work is available, the applicant be given work and that he cannot be treated as a fresh recruit as his reinstatement would date back on the date when his services were terminated. There is a wide scope for Telecommunications Department to give employment to casual mazdoor in view of availability of work and therefore, we hope and trust the departmental authorities would reinstate the applicant within one month from the date of receipt of a copy of this judgment and would employ him as a casual mazdoor and give him work as and when available.

5. Mr.A.K.Bose further submitted that a seniority list has been published on 2.3.1989 vide Annexure-11. The name

of the applicant does not find place in the list- perhaps due to the fact that the services of the applicant had been terminated. Now that we have ordered reinstatement of the applicant his case should be considered from the date when he was first engaged as a casual mazdoor and accordingly his name should find place in the seniority list and thereafter, the departmental authorities would act as per the Rules. The applicant shall not be entitled to any back wages.

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

*Karan Singh*  
27.4.85  
Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

9 agree

*Bushra*  
27.4.85  
Vice-Chairman

Central Administrative Tribunal,  
Cuttack Bench, Cuttack.  
April 27, 1989/Sarangi.

