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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No.272 of 1988

Date of decision: April 14, 1989.

Narayan Nanda, son of Jadumani Nanda,
village-Pariapatapur, P.S.Baliana,
Dist-Puri.

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Applicant.

versus

1. Union of India, represented by the Director General, Telecommunications, Sanchar Bhavan, New Delhi.
2. General Manager, Telecommunications, Orissa, At/P.O. Bhubaneswar, Dist-Puri.
3. Sub-Divisional Officer, Phones, At/P.O. Bhubaneswar, Dist-Puri.
4. Divisional Engineer, Telegraphs, At/P.O. Bhubaneswar, Dist-Puri.

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Respondents.

For the applicant : M/s.Devanand Misra,
Deepak Misra, R.N.Naik,
A.Deo, Advocates.

For the respondents : Mr.A.B.Mishra,
Senior 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)

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

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JUDGMENT

K.P.ACHARYA, MEMBER (J) In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays to issue direction to the respondents to regularise his services and to pass any other orders as may be deemed fit and proper.

2. Shortly stated, the case of the applicant is that he was a casual Mazdoor attached to the Office of the Sub-Divisional Officer, Phones, Bhubaneswar and he worked from April, 1973 to July, 1976 in Cable Jointing Party. A criminal case was launched against the applicant alleging theft of telephone wires and therefore, the applicant was charged under section 379 of the Indian Penal Code which formed subject matter of G.R. Case No. 1861 of 1976. Mr. P. K. Sahoo, learned Judicial Magistrate, First Class, Bhubaneswar recorded an acquittal in favour of the applicant. Even though an order of acquittal was recorded in favour of the applicant, no work being entrusted to the applicant, he made a representation and vide Annexure-4 it was said that it was not considered desirable to bring back the applicant and reengage him as casual mazdoor. Hence this application with the aforesaid prayer.

3. In their counter, the respondents maintained that rightly the order has been passed under Annexure-4 and in no circumstances, directions should be issued to the competent authority to reengage the applicant as casual mazdoor. In a crux, it is maintained that the case being devoid of merit is

liable to be dismissed.

4. We have heard Mr. Deepak Misra, learned counsel for the applicant and Mr. A. B. Mishra, learned Senior Standing Counsel (Central) at some length. It was submitted by learned Senior Standing Counsel (Central) that from 1983 to 1986 the applicant voluntarily absented himself from service which finds place in the counter and therefore, the application of the applicant should not be allowed. Mr. Deepak Misra, learned counsel for the applicant submitted that once there is a clean acquittal passed in favour of the applicant it is no longer open to the authorities to say that it is not considered desirable to bring back the applicant and reengage. Engagement of a casual labourer lies completely within the discretion of the authorities. We are not in a position to give any specific direction. But in view of the order of acquittal passed in favour of the applicant we do hereby expunge the quoted portion mentioned hereunder. "Not considered desirable". This portion is expunged from Annexure-4. As such, the Respondent No. 1 may consider the representation filed by the applicant as per Annexure-5 and dispose of the same. Any of our observations should not weigh with the competent authority. He is free to take a view which will be congenial to the administration.

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

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.....14.4.89.....
Member (Judicial)

B.R. PATEL, VICE-CHAIRMAN,

I agree

B.R. Patel
.....14.4.89.....
Vice-Chairman

Central Administrative Tribunal
Cuttack Bench, Cuttack, Odisha
April 14, 1989/Sarangi

