

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No. 286 of 1988.

Date of decision : February 2, 1989.

C.V.Narayan Rao, aged about 27 years,
S/o Sri C.V.Ramachandra Rao, Madhusudan
Nagar, Unit IV, Bhubaneswar, Dist.Puri.

... Applicant.

Versus

1. Union of India, represented by
Comptroller & Auditor General of India,
New Delhi.
2. Accountant General (A& E),
Orissa, Bhubaneswar-751001.
Dist.Puri.

... Respondents.

For the applicant ... M/s.P.V.Ramdas,
B.K.Panda, Advocates.

For the respondents ... Mr.Ganeswar Rath,
Addl. 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 ?
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 to quash the order of verbal termination of service passed by the Respondent No. 2 on 9.9.1987 and furthermore to direct the respondents to absorb the applicant in regular vacancy as Clerk-cum-Typist with consequential service benefits.

2. Shortly stated, the case of the applicant is that he is contingent worker belonging to Group C attached to the office of the Accountant General (A& E), Orissa, Bhubaneswar. The applicant was appointed as such at different periods according to the work available in the said office and the applicant was discharging his duties assigned to him. On a particular day in September, 1987 the applicant was verbally asked not to come to Office as there was no work to be provided to him. The applicant made representations which did not yield any fruitful result and therefore, he has come up before this Bench with the aforesaid prayer.

3. In their counter, the respondents maintained that the regular candidates having come to the job in question through the Staff Selection Commission, the competent authority had no other option but to terminate the services of the applicant as there was no further work to be entrusted to him. Thus, the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. P.V. Ramdas, learned counsel for

applicant and Mr. Ganeswar Rath, learned Additional Standing Counsel (Central) at some length. We have also perused the averments of the application under section 19 of the Act and the averments made in the counter. Before we express our opinion on the merits of the case it is worthwhile to mention that there is some dispute regarding the date on which the applicant was verbally asked not to report to duty. According to the applicant, the applicant was asked not to report to duty on 9.9.1987 whereas the stand taken by the respondents in their counter is that the applicant was asked on 9.7.1987 not to report for duty any further. This dispute in question has no relevance for the decision to be taken in this case.

5. We have given our anxious consideration to the arguments advanced at the Bar. Relying on the averments in the counter, it was submitted by Mr. Ganeswar Rath, learned Additional Standing Counsel (Central), there being no work to be provided to the contingent workers due to the incoming of the incumbents through the Staff Selection Commission, the competent authority had no other option but to terminate the services of the contingent workers. On the other hand, it was submitted by Mr. P. V. Ramdas, learned counsel for the applicant that there are still 64 vacancies available at the disposal of the Accountant General as those vacancies have not been filled up by incumbents through the Staff Selection Commission and therefore, work in regard to those posts should be entrusted to the applicant.

till the incumbents recommended by the Staff Selection Commission join those posts. In case, the statement of fact made by counsel on instructions of the applicant is true or correct, we hope and trust the Accountant General would entrust work enjoined to those posts (if vacant) to the applicant considering the seniority of the applicant till the vacancies are filled up by regular candidates. Ofcourse, this point was taken by learned counsel for the applicant for the first time at the time of hearing and therefore, rightly Mr.Ganeswar Rath had no opportunity to either confirm or controvert the fact. We leave it to the Accountant General to comply with the directions contained in the judgment if the vacancies are available.

6. It was vehemently contended by Mr.Ganeswar Rath that the petition is not maintainable because the applicant is not civil servant and being contingent worker the provisions contained under section 14 of the Administrative Tribunals Act,1985, cannot be attracted. We find no merit in the aforesaid contention of Mr.Ganeswar Rath because in a similar matter we have already taken the same view which formed subject matter of O.A.401 of 1987 disposed of on 5.4.1988. Thatapart, Section 14 of the Administrative Tribunals Act,1985, deals with recruitment, and matters concerning recruitment, to any All-India Service or to any civil service of the Union or a civil post under the Union etc. Admittedly, the applicant had worked for a

particular period as Clerk though on contingent basis. Therefore, there is no escape from the conclusion that Section 14 of the Act is attracted and it fully applies to the case of the applicant.

7. In view of the observations made above, we hope and trust the Accountant General would devote his attention to do the needful at his earliest convenience.

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

L. J. S. 2.2.89
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Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

I agree.



Central Administrative Tribunal,
Cuttack Bench, Cuttack.
February 2, 1989/S. Sarangi.

K. K. S. 2.2.89
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Vice-Chairman