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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No. 370 of 1988.

Date of decision: January 10, 1989.

Bhagirathi Patel, son of Tularam Patel,
aged about 27 years, at present working
as Junior Engineer, Central Water Commission,
Site No.61(N) Jenapur, Dist. Cuttack
At/P.O. Kabatabando, Via Jenapur, Dist.
Cuttack. ...

Applicant.

Versus

1. Union of India, represented by
Chairman Central Water Commission,
R.K. Puram, New Delhi-66.
2. Superintending Engineer, Central Water
Commission, Godavari Mahanadi Circle,
H.No.5-9-201/B & B-1, First Floor,
Chirag Ali Lane, Hyderabad-1.

... Respondents.

For the applicant ... M/s. C. V. Murty,
C. M. K. Murty,
S. K. Rath, Advocates.

For the respondents... Mr. Tahali Dalai, Addl. Standing
Counsel (Central)
Mr. A. B. Mishra, Sr. 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 ? No
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 challenges the order passed by the Superintending Engineer, Godavari Mahanadi Circle, Central Water Commission, Hyderabad terminating his services vide Annexure-7.

2. Shortly stated, the case of the applicant is that he was appointed as a Junior Engineer in the Central Water Commission vide Annexures-1 and 2. The applicant joined as such on 28.9.1987 and vide Annexure-7 the services of the applicant have been terminated. Hence, this application with a prayer to quash Annexure-7.

3. In their counter, the respondents maintained that on all India basis the applicant and some others having been found to be surplus as their seniors were to be absorbed in regular vacancies the competent authority had no other option but to terminate the services of the applicant and this termination took place according to the terms and conditions laid down in the offer of appointment vide Annexure-1. Such being the situation, the termination order was rightly passed by the competent authority and that the applicant could have no grievance on this account and it is further maintained by the respondents that the case being devoid of any merit, is liable to be dismissed.

4. We have heard Mr. C. V. Murty, learned counsel for the applicant and Mr. Tahali Dalai, learned Additional Standing Counsel (Central) at some length. Mr. Murty has filed an additional rejoinder on behalf of the applicant

to the counter filed by the respondents. Along with the additional counter, Mr. Murty has filed a copy of the order passed by the Ministry of Water Resources (letter No. F-42 (2) /79-FC (Vol. II) dated 1.11.1988 addressed to the Chairman, Central Water Commission, New Delhi on the subject "Creation of Posts- scheme for Establishment and Maintenance of 163 Key Hydrological Stations on river basins in the country other than Ganga & Indus". Relying on the statement annexed to the above mentioned letter Mr. Murty submitted that at least 41 posts of Junior Engineer having been sanctioned by the Government of India, the case of the applicant should now be considered for regular appointment. Against Sl. No. 5 of the said statement it is mentioned Junior Engineer (C) - 6 posts and against Sl. No. 15 it has been mentioned that one post of Junior Engineer (C) for each of the 35 sites - total vacancies 35. This comes to 41, according to Mr. Murty. The additional rejoinder having been filed today just before the argument commenced there was no opportunity for learned Additional Standing Counsel (Central) to take instructions in the matter. But even though he prayed for adjournment we did not think it necessary to grant an adjournment in view of the conclusion we propose to arrive at. Prima facie it appears to us from the statement annexed to the above mentioned letter that 41 posts have been sanctioned. In case, this position is correct, we would direct a seniority list of all the incumbents appointed on temporary basis like that of the applicant and

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retrenched because of ~~those persons~~ ~~they~~ having been declared surplus, should be prepared and appointment to these 41 posts should be made senioritywise and in case the applicant comes within the consideration zone on the basis of his seniority his case should be considered for appointment against any of these sanctioned posts particularly when the applicant has served the department for more than one year and nothing has been mentioned against his conduct, in the counter. In case, the applicant does not come within the consideration zone according to his seniority, this judgment would become ineffective. We would therefore, direct that a seniority list be prepared on all India basis in regard to the incumbents placed in similar situation like that of the present applicant and cases of those incumbents be considered as indicated above and necessary orders be passed according to law by the competent authority regarding their appointment, within three months from the date of receipt of a copy of this judgment and the stay order passed by this Bench will continue till the final order ^{is} to be passed by the competent authority and would automatically stand vacated after such final order is passed.

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

[Signature]
10.1.89
Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN, 9 Agree.

[Signature]
10.1.89
Vice-Chairman

Central Admn. Tribunal,
Cuttack Bench: Cuttack.
January 10, 1989/Sarangi.