

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No.413 of 1988.

Date of decision : April 11,1989

Ananga Kumar Samanta, aged about 28 years,
son of Krushna Chandra Samanta, at present
working as Manager, Postal Departmental Canteen,
Cuttack General Post Office, Town, Munsifi and
District-Cuttack.

Applicant.

Versus

1. Union of India, represented by its
Secretary, Department of Posts, Dak Bhavan,
New Delhi.
2. Postmaster General, Orissa Circle,
At/P.O. Bhubaneswar, Dist. Puri.
3. Senior Postmaster,
Cuttack G.P.O., P.O./Dist. Cuttack.

Respondents.

For the applicant ...

M/s. Devanand Misra,
Deepak Misra,
R.N. Naik, Anil 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 ? *M*
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 for a direction to the respondents to communicate the fact of regularisation of services of the applicant and to direct the respondents to pay 100% of his salary and furthermore, to direct the respondents not to take any steps for removing the applicant without following the due procedure of law.

2. Shortly stated, the case of the applicant is that he is a Manager of the Postal Departmental canteen of Cuttack General Post Office and it is maintained by the applicant that on 10th December, 1988 the canteen of which the applicant was manager was closed by the order passed by the competent authority and being aggrieved by such order the applicant has come with this application and with the aforesaid prayer.

3. In their counter, the respondents maintained that the case being devoid of merit is liable to be dismissed in limine because the canteen is managed by a committee constituted under the Departmental Canteen Employees (Recruitment and Condition of Service) Rules, 1980 and therefore the closure of the canteen or termination of the services of the applicant has nothing to do with the authorities of the Postal Department i.e. the Postmaster General and others. In such circumstances, relief sought by the applicant cannot be and should not be granted in his favour.

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. Mr. Misra strenuously

pressed before us that closure of the canteen is illegal and the relevant procedure not having been followed, the order passed by the competent authority closing the canteen should be set aside and the applicant should be allowed to continue in service. So far as the closure of the canteen is concerned, we have no powers to say that the canteen should function. The reasons for the same have been explicitly stated in Annexure-R/1. Therein it is found that a general body of the staff of Cuttack General Post Office was convened on 9.12.1988. In pursuance to the decision taken by the Managing body and the affairs of the canteen and management were discussed in detail. The members of the said managing body stated that they do not like to take tiffin and meals in the canteen due to the increase of the rates of various food stuff by the Manager and the members also opined that despite repeated efforts made by the management the quality of the food stuff could not be improved in comparison to the food stuff available in the open market. It was therefore unanimously decided by the staff of the General Post Office, Cuttack to close down the canteen. In such circumstances, we cannot persuade ourselves to infringe our jurisdiction and direct that the canteen should continue.

5. As regards the services of the applicant a reference should be made to Rule 27 of the Departmental Canteen Employees (Recruitment and Conditions of Service) Rules, 1980 which runs thus :

- " (1) The members of the Service employed in a canteen, which is decided to be closed for administrative reasons by the office or establishment concerned, shall be deemed to have been retrenched from service with effect from the date of closure of such canteen. "x "

From the above quoted provision it cannot but be said that by virtue of closure of the canteen the services of its employees in the canteen are deemed to have been retrenched. In other words, they automatically vacate. In such circumstances, we also cannot direct their continuance of service in the canteen.

6. Due to the aforesaid reasons, we find no merit in this case. Therefore, the above mentioned prayers of the applicant cannot be allowed.

7. Before, we part with this case, we may say that it is unfortunate that due to certain unforeseen circumstances, the services of the applicant have automatically come to an end. Mr. Deepak Misra submitted before us that the Postmaster General should be requested to adjust the applicant against any other suitable post in the Postal Department. We therefore, request the Postmaster General ^{to} ~~shall~~ take a compassionate view in the matter especially in these hard days to throw out a man to the open street and deprive of his sustenance of livelihood would be a hardship. We hope and trust the Postmaster General, Orissa Circle, Bhubaneswar would make an earnest effort to appoint the applicant in a suitable post as early as possible keeping in view the qualification and experience gained by the applicant in the canteen and we also hope that such kind attitude of the Postmaster General would be extended to the applicant as soon as possible.

8. Thus, this application is accordingly disposed of

leaving the parties to bear their own costs.

[Signature]
11.4.89
.....
Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

I agree.

[Signature]
11.4.89
.....
Vice-Chairman



Central Administrative Tribunal.
Cuttack Bench, Cuttack.
April 11, 1989/Saranghi.