

111

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No.61 of 1988.

Date of decision : March 17, 1988.

Amulya Kumar Jena, aged about
30 years, son of late Krishna Chandra
Jena at present working as Night-Watchman,
Medical College, P.O., Town and District-
Cuttack.

...

Applicant.

Versus

1. Union of India, represented by its
Secretary, in the Department of Posts,
Dak Bhawan, New Delhi.
2. Senior Superintendent of Post Offices,
Cuttack North Division, Town and District-
Cuttack.
3. Sub-Divisional Inspector (Postal),
Cuttack North Division, Cuttack.
Town and District-Cuttack.

...

Respondents.

For the applicant : M/s. Deepak Misra,
R.N. Hota, &
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 ? 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 prays for a direction to the respondents not to dislodge him from the post which the applicant is now holding.

2. Shortly stated, the case of the applicant is that he was appointed as a Night-watchman in the S.C.B.Medical College Post Office with effect from 1.7.1986 and by virtue of an order passed by the Department of Posts, Ministry of Communication, New Delhi, ordering that certain posts of Extra-departmental agents who are performing non-postal work shall be abolished and in consequence thereof, the services of the applicant are being dispensed with. Hence a prayer to the above effect has been made by the applicant.

3. In their counter the respondents maintained that the present applicant (Shri Amulya Kumar Jena) was appointed provisionally as a Night-watchman in place of Shri Chandramani Debata who had unauthorisedly absented himself and consequently Shri Debata retired on superannuation with effect from the afternoon of 14th September, 1986. It is further maintained by the respondents that the post in question is being abolished in compliance with the directions given by the Ministry which formed subject matter of Annexure-2. Therefore, according to the respondents the services of the applicant are bound to be dispensed with.

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. We are in complete agreement

with the submission made by learned Senior Standing Counsel (Central) that the departmental authorities have no other option but to carry out the mandate given by the Ministry contained in Annexure-2. In the said mandate it has also been stated that though the posts are being abolished yet none of the present incumbents will be discharged and they would be absorbed in other Extradepartmental categories who perform postal functions as and when vacancies are available. Learned Senior Standing Counsel (Central) submitted before us that there have been other persons in the waiting list who are to be appointed on compassionate grounds and therefore the departmental authorities would be in great dilemma if any direction is given by this Bench to absorb the applicant on compassionate grounds more because he was only a provisional appointee. After giving our anxious consideration to the argument advanced by learned Senior Standing Counsel (Central) we still feel that the direction given by the Ministry that the employees should be absorbed in some other posts should be borne in mind by the departmental authorities so far as the present applicant is concerned, even if he is a provisional appointee. By this we do not mean to say that he would supersede the claim of others who are on the waiting list to be appointed on compassionate grounds. Lastly we would say that the case of the applicant be considered by the departmental authorities for appointment to a regular post on compassionate ground when vacancy occurs. Mr. Deepak Misra, learned counsel for the applicant further submitted that in Annexure-2 it has been mentioned ;

" However, none of the present incumbents of such posts will be discharged. They will be absorbed in the other E.D. categories who perform postal functions as and when vacancies are available. "

It was further submitted that the departmental authorities should not discharge the applicant. We hope the departmental authorities would take notice of this part of the order and act according to law.

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

h.sarangi
17.3.88
Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,



B.R.Patel
17.3.88
Vice-Chairman

Central Administrative Tribunal
Cuttack Bench, Cuttack.
March 17, 1988/S.Sarangi.