

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.166 of 1989.

Date of decision: January 2, 1991.

Nrusingh Charan Barik ... Applicant.

Versus

Union of India and others ... Respondents.

For the applicant :: M/s. Bimal Pr.Das,
Bikram Pr.Das
G.Rout, Advocates.

For the respondents ... Mr.Tahali Dalai,
Addl. Standing Counsel (Central)

C O R A M:

THE HONOURABLE MR. B.R.PATEL, VICE-CHAIRMAN

A N D

THE HONOURABLE MR. N. SENGUPTA, 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

B.R.PATEL, VICE-CHAIRMAN, This is for the third time that the applicant has approached this Tribunal. In this application he has sought orders for quashing Annexure-4 which is a copy of the order of the Honorary Secretary, Census Departmental Canteen, Bhubaneswar, dated 25.8.1987. This order is to the effect that the services rendered by the applicant from 28.2.1983 to 15.12.1983 will go towards his benefit for all purposes. Another relief sought by him is reinstatement in service.

2. For better appreciation of the grievance of the

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applicant, we consider it necessary to recount the circumstances leading to retrenchment of the applicant's services. The applicant was employed as a Cook in the Departmental Canteen on 9.8.1982. His services were terminated vide Annexure-3 dated 15.12.1983. Being aggrieved with the order dated 15.12.1983 the applicant approached the Hon'ble High Court of Orissa in a writ petition numbered as O.J.C.No.1465 of 1984. That writ petition was transferred to the Tribunal by virtue of the operation of Section 29 of the Administrative Tribunals Act, 1985. This Bench vide their order dated 3.8.1987 quashed the order of termination and ordered that the applicant should be deemed to have been in service on 15.12.1983. As a consequence of this judgment, the Honorary Secretary of the Census Departmental Canteen vide his order dated 25.8.1987 (Annexure-4) ordered that the applicant was entitled to service benefits till 15.12.1983. He further says that if he has any claim he should present it within three weeks from the date of receipt of the order. The applicant approached the Tribunal again in Contempt Petition (Civil) 1 of 1988. The orders passed by the Tribunal in this case reads as follows:

" We do not find any where in the impugned order that the direction given by this Bench in its judgment dated 3rd August, 1987 has been violated so as to initiate a proceeding for contempt. Once the post has been abolished since 28.2.1983, we think the competent authority has no scope to employ the petitioner in such post.. "

3. The respondents in their counter have maintained that since there was no post the applicant could not be reinstated. The situation has not changed and the

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Organisation is not in a position to reinstate the applicant.

4. We have heard Mr.B.P.Das, learned counsel for the applicant and Mr.Tahali Dalai, learned Additional Standing Counsel (Central) for the respondents and perused the relevant papers. In view of our order in Contempt Petition (Civil) No.1 of 1988 there is hardly anything more for us to decide in this case. At the cost of repetition we would like to say that as there is no post available it will not be possible for the Department to reinstate the applicant in service with effect from 16.12.1983. As such, we are constrained to dismiss the application but however if there would be any such post available in future the case of the applicant should be considered for appointment.

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Member (Judicial)



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Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
January 2, 1991/Sarangi.