

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.**

Original Application No. 336 of 1989.

Date of decision : January 31, 1991.

Adikanda Mallik and others ... Applicants.

Versus

Union of India and others ... Respondents.

For the applicants ... **Mr.D.P.Dhalsamant, Advocate.**

For the respondents ... Mr. Aswini Kumar Misra, ,
Sr. Standing Counsel (CAT).

C O R A M :

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

A N D

THE HONOURABLE MR. N. SENGUPTA, MEMBER (JUDICIAL)

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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, Briefly stated, the facts are that the applicants (four in number) were Extra-Departmental Night watchmen of different Branch Post Offices i.e.Jenapur, Barundei, Dangadi and Kalasingatta in the district of Cuttack. Having accepted the recommendation of the Savoor Committee, the Department abolished all non-postal posts including the posts of all Extra-Departmental Nightwatchmen. Those applicants the reupon were adjusted as Extra-Departmental Delivery Agent cum Extra-Departmental Mail Carrier of Ollala, Gobardhanpur, Ramagundi and Kaijhar Branch Post Offices. In this application the applicants have moved

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the Tribunal to direct the respondents to protect their allowances they were getting as Night Watchmen and to maintain continuity of their services. The ground urged by them is that allowance of a Night Watchman was Rs.420/- per month whereas that of an Extra-Departmental Delivery Agent cum Extra-Departmental Mail Carrier is Rs.240/- plus Dearness allowance as revised from time to time.

2. The respondents in their counter have maintained that the posts of Nightwatchmen were abolished as a matter of policy but on compassionate grounds the retrenched personnel have been adjusted against Postal posts as per the instruction of the Assistant Director General (Training), a copy of which is at Annexure-R/1. The Department also invited the options from the applicants and the applicants have given their consent to be absorbed in the new posts.

3. We have heard Mr.D.P.Dhalsamant, learned counsel for the applicants and Mr.Aswini Kumar Misra, learned Senior Standing Counsel (CAT) for the respondents and perused the papers. Mr.Dhalsamant strenuously urged that non-protection in the allowance is not warranted and against all principles of natural justice and therefore, the applicants' allowance should be protected along with their service. On the other hand, Mr.Aswini Kumar Misra stated that the absorption of the Watchmen ~~in~~ in the new posts was done on consideration more of compassion. According to Mr.Misra when a post is abolished on public interest, the Department or the Government is not in duty bound to absorb the retrenched persons. Moreover, according to Mr.Misra there is no mention in the instructions issued by the Director General, Posts in regard

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to the protection of the allowance of the applicants as well as continuity of their services. In this connection, he referred to us the following portion of Annexure-R/1.

" The following categories of E.D. Agents who are performing non-postal work shall be abolished. 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".

In the list of posts abolished Watchmen occurs at Serial No.5. Since there is no direction issued by the Department it will not be possible for the authorities to protect the allowance. Furthermore, it has been urged by Mr. Misra that the applicants have been absorbed with their consent.

In view of the fact that none of the applicants have been discharged and have been absorbed ^{and} in new posts, as there is no instruction of the Government to protect their allowance and maintain continuity of service, it will not be possible for us to grant any relief in this regard. However, if there is any rule, no rule has been placed before us, that the services rendered by the applicants as Night Watchmen should be given credit in the new posts. ^{the rule should be} However,

*is complied with
in this case*

it has been pointed out to us that these applicants are not Government servants and that there is no scale of pay attached to the posts earlier held by them and the posts in which they have been absorbed. For this reason continuity of service is not very much material. If there is any such rule, no rule has been placed before us, in regard to the continuity of service, in such circumstances, that rule should be implemented and continuity maintained.

Ans

4. This application is disposed of accordingly. No costs.

Member (Judicial)
Member (Judicial) 31.1.91

Bench 31.1.91
Vice-Chairman



Central Administrative Tribunal,
Cuttack Bench, Cuttack.
January 31, 1991/Sarangi.