

(9)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 404 of 1989.

Date of decision : December 18, 1989.

Pradeep Kumar Sahu, aged about 28 years,
son of Banchhanidhi Sahu, C/o Surjyamani
Khadanga, Plot No. 423, Nuasahi, Nayapalli,
Bhubaneswar-12, District-Puri.

... Applicant.

Versus

1. Union of India, represented by its
Secretary-cum-Director General of
Telecommunication, Sanchar Bhavan,
20, Ashoka Road, New Delhi.
2. Deputy General Manager (Civil),
Telecom Civil Circle,
101/A, Scheme Nagar, Bhubaneswar-751007.
District-Puri.
3. Divisional Officer (Civil),
Telecom Civil Division,
17, Kharabel Nagar,
P.O. Bhubaneswar, Dist-Puri.
4. Superintending Engineer,
Telecom Civil Circle,
At/P.O. Bhubaneswar, Dist. Puri.

... Respondents.

For the applicant ... M/s. Devanand Misra,
Deepak Misra,
R.N. Naik, A. Deo,
B.S. Tripathy,
U.S. Agrawal, Advocates.

For the respondents ... Mr. P.N. Mohapatra,
Addl. Standing Counsel (Central)

C O R A M :

THE HON'BLE MR. B.R. PATEL, VICE-CHAIRMAN

A N D

THE HON'BLE 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.

further prayed that he should be allowed to appear in the special examination to be conducted by the Staff Selection Commission.

2. In their counter the respondents have maintained that the applicant was kept on the job as directed by the Tribunal till those posts were filled up by regular appointment and there being no job available for him, he is to vacate the post.

3. We have heard Mr. Deepak Misra, learned counsel for the applicant and Mr. P. N. Mohapatra, learned Additional Standing Counsel (Central) and perused the papers. Mr. Misra has averred that according to the information available with him there is now one post available and instead of ousting the applicant, the Department should be directed to keep him against that post till regular recruitment is made. He has further submitted that as per the direction of the Tribunal in their judgment referred to above, he has filed an application to be forwarded to the Staff Selection Commission but instead of doing that the Executive Engineer, Telecom, Civil Division, Bhubaneswar vide Annexure-5 has rejected his application. Mr. Mohapatra drew our attention to the penultimate paragraph of the judgment in O.A. 270 of 1987 which reads as follows :

" We leave it completely to the discretion of the Executive Engineer to pass appropriate orders according to law."

According to Mr. Mohapatra, since the Executive Engineer is not the authority to relax the age limit for which the applicant applied, he has no option but to reject the application.

In fact, in paragraph 6 of the judgment in the aforesaid case

Rm. Mohapatra

J U D G M E N T

B.R.PATEL, VICE-CHAIRMAN, This is a sequel to Original Application No.270 of 1987 which was disposed of on 24.2.1989. The applicant who was appointed as a Works Clerk Grade II for 89 days by the Executive Engineer, Telecom, Civil Division, Bhubaneswar vide order dated 2.7.1986 had moved the Tribunal in the aforesaid case to direct the respondents to allow him to continue in the post. The applicant's job had been terminated in the meantime on 24.7.1987. In the order dated 24.2.1989 this Bench ordered as follows:

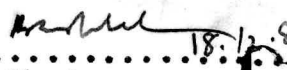
" Such being the situation in all fairness to the applicant who has no discredit against him in discharge of his official duties, we would direct that one of those posts be given to the applicant till it is filled up by regular recruit."

On information furnished by the official witness examined by the Tribunal it was found that there were two posts vacant which could be filled up by candidates sponsored by the Staff Selection Commission, candidates who are in the reserved trained pool, any scheduled caste candidate whose case can be considered relaxing the standard of recruitment and return of one Shri S.N. Rao who was posted to Hyderabad on deputation. It was further ordered vide paragraph 5 of the judgment that in case, the Chief General Manager, Telecommunications comes to a conclusion that there are no more posts available then the applicant is bound to vacate the post which he would be holding in favour of the regular candidates. The applicant continued against one of the two posts mentioned above. But now those posts have been filled up on regular basis and the applicant faces the hardship being ousted. He has therefore, prayed that he should be regularised in one of the posts and his services should not be terminated. He has



this Bench has directed that the applicant should file an application for appearing in the examination to be conducted by the Staff Selection Commission and not for relaxation of age limit. After having heard both Mr. Misra and Mr. Mohapatra we have come to the conclusion that as the applicant has not been regularly selected, there is no question of regularisation of his service as prayed for in this application. However, as the applicant has been working under the Department for some time, in case there is a vacancy, he may be allowed to continue till that vacancy is filled up on regular basis. As prayed for by Mr. Misra, we would also direct that the application already made by the applicant should be forwarded by the Executive Engineer, Telecom Civil Division, Bhubaneswar to the Staff Selection Commission for sympathetic consideration.

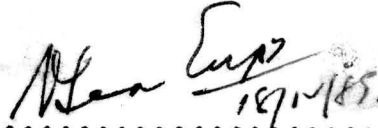
4. This case is accordingly disposed of leaving the parties to bear their own costs.


.....18.12.89
Vice-Chairman



N. SENGUPTA, MEMBER (J),

I agree.


.....18/12/89
Member (Judicial)

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
December 18, 1989/Saranghi.