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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.477 of 1989.

Date of decision : March 19, 1991.

Bibekananda Pattnaik. ... Applicant.

versus

Union of India and others ... Respondents.

For the applicant ... M/s. J. Das,
B.S. Tripathy,
B.K. Sahoo,
S. Mallick, K.P. Misra,
Advocates.

For the respondents ... Mr. A. B. Mishra,
Sr. 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.
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JUDGMENT

N. SENGUPTA, MEMBER (J) The applicant has prayed for the relief of quashing the order at Annexure-5.

2. The facts material for this application are that the applicant offered himself as a candidate for being appointed as Junior Scientific Assistant, Grade II. Initially he was appointed on ad hoc basis for 89 days vide Annexure-2 series. After that on 28.7.1989 an

*N. Sengupta
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offer of appointment was made to the applicant with certain terms and conditions i.e. the post was temporary, the applicant would be on probation for a period of two years and he will be subject to other conditions of service as applicable to temporary Civilian Government servants. The other conditions are not relevant for the present purpose 5 days thereafter, i.e. on 2.8.1989 before he could join (through he had filed a joining report on 21.7.89) the post, Respondent No.3 informed him that as he possessed qualifications higher than ~~the~~ Graduation in Science with Physics, Chemistry and Mathematics his case was being referred to the higher authorities for consideration and to obtain a decision with regard to his appointment. On 8.8.1989 the applicant was informed that the offer of appointment made to him on 28.7.1989 stood cancelled. Subsequent thereto the applicant made a representation to Respondent No.2, the next higher authority of Respondent No.3 for reconsideration of his case but as no relief was given to him, he has asked for quashing of Annexure-5 and for disbursement of emoluments and to grant other consequential reliefs incidental to the offer of appointment.

3. The respondents in their reply in counter have maintained that the applicant was appointed on ad hoc basis as Junior Scientific Assistant Grade II on 27.4.1989 for 89 days. During such period of ad hoc appointment the applicant was selected for being regularly appointed as Junior Scientific Assistant, Grade II, offer for which was made formally on 28.7.1989. The contention of the respondent

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is that the offer was merely a contract between the employer and the employee and as in the said contract the employer reserved the right to terminate the services of the employee after giving notice and without assigning any reason, the applicant cannot make any grievance against Annexure-5 which is supportable under the terms of the contract.

4. We have heard Mr.K.P.Misra, learned counsel for the applicant and Mr.A.B.Misra, learned Senior Standing Counsel(Central) for the respondents and perused the annexures to the application. It is no doubt true that the applicant had not taken over charge of the post of Junior Scientific Assistant, Grade II under offer made by Annexure-3 but it has now come to be settled without any controversy that once a person is selected for appointment in a public service, a right accrues to him and it cannot be taken away without giving him an opportunity of being heard in the matter. Admittedly the respondents did not give any opportunity to the applicant to be heard. The reason that the respondents assigned in Annexure-4 for not allowing the applicant to join is that the applicant was more qualified than the minimum qualification required for the post. It is really an absurd reason, the very fact that the word 'minimum' is used would itself suggest that a person possessing higher qualification is definitely entitled to be considered. We have, therefore, no hesitation in saying that the Department cancelled the offer of appointment made in favour of the applicant on grounds not sustainable. Accordingly, Annexure-5 is quashed.

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Since we have quashed Annexure-5 the applicant must report to the Administration within a period of 15 days for work as Junior Scientific Assistant Grade II.

5. The applicant has asked for emoluments. If really the applicant has any arrear of emoluments during the period he was employed on ad hoc basis that is another matter but as the applicant had not really joined ~~us~~ in pursuance of Annexure-3, no direction for paying him any emoluments can be given. Accordingly that part of the prayer of the applicant is rejected. The other service benefits he will be entitled ^{to} from the date on which he submitted his joining report in pursuance to the offer of appointment dated 28.7.1989.

6. This case is accordingly disposed of. No costs.

March 19.3.91
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Vice-Chairman

Resigned
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19.3.91
Member (Judicial)



Central Administrative Tribunal
Cuttack Bench, Cuttack.
March 19, 1991/Sarangi.