

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

ORIGINAL APPLICATION NO: 50 OF 1989.

Date of decision: January, 14, 1991.

Naba Kumar Barik and others : Applicants

Versus

Union of India and others : Respondents.

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

For the Respondents : Mr. Ganeswar Rath, Sr.
Standing Counsel (Central)

C O R A M :

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

AND

THE HON'BLE MR. K.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 (JUDICIAL), The applicants, three in number, have prayed for a direction to the Respondents to regularise their services as Typist or Clerk and a further direction to pay them remuneration at pro rata basis in the scale prescribed for a clerk/typist working in the Office of the Accountant General, Orissa.

2. Admittedly the three applicants were engaged as Casual typists, in the office of the Accountant General (Audit) and they worked as such for considerable periods, applicant No.1 worked from 25.8.86, applicant No.2 from 25.9.87 and applicant No.3 from 7-10-1985 till the date of filing of the application on 8th January, 1989. The applicants have alleged they made representation to the authorities for paying them remuneration on pro rata basis but none of them got any relief and that their services were not regularised.

3. The Respondents in their counter have maintained that as the applicants rushed to the Tribunal before expiry of six months from the date of making representation, the application is premature and barred

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under Section 20 of the Administrative Tribunals Act, 1985. Their further pleas is that the applicants were engaged on express understanding that their services were liable to be terminated on the appointment of regular candidates through Staff Selection Commission (S.S.C.) or through Surplus Cell, therefore, they cannot claim regularisation. They have further averred that with effect from 3.1.1989 on the appointment of regular candidates sponsored by S.S.C., their services were terminated and that the applicants were paid remuneration on daily wage basis for all the dates they worked.

4. We have heard Mr. Deepak Misra learned Counsel for the applicants and Mr. Ganeshwar Rath learned Senior Standing Counsel (Central) for the Respondents. During the course of arguments it has come to ~~be~~ be rather admitted that the procedure for appointment of Clerks/Typist which are Group 'C' posts is that the candidate must be selected and sponsored by the S.S.C. or would have been ^{de} deployed after being declared Surplus. The Respondents have, as stated just above, maintained that before the filing of the application the post of Clerk/Typist were filled up by regular appointment, therefore, there were no post available for the appointment of the applicants. In such circumstances, though we are of the opinion that as the

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applicants worked more than one and half years and rendered service to the Department, they deserved consideration for regular appointment yet it would not be possible to give a direction to regularise their services.

5. With regard to the question of remuneration, we have absolutely no hesitation in saying that the applicants are entitled to remuneration on pro rata basis at the rate of the emoluments payable to a typist in the initial of the scale prescribed for Clerk/typist. It is also made clear that as the regular employees are entitled to a weekly off, the remuneration payable to the applicants should be calculated on that basis i.e. the applicants are entitled to the wages or remuneration for the whole of the week including the weekly off, but not for other days on which they did not work. The calculation and the payment of arrears, if any, be made within three months hence.

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

Parikh
..... 14.1.91
VICE CHAIRMAN

Mem Encl
..... 17.1.91,
MEMBER (JUDICIAL)



Central Administrative Tribunal,
Cuttack Bench/K. Mohanty.