

(5)

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, : CUTTACK.

ORIGINAL APPLICATION No.213 OF 1990.

Date of decision : July,17 ,1990.

Suresh Chandra Acharya, aged about  
31 years son of late Damodar Acharya,  
of Dhananjayapur, PO: Digapada,  
P.S.; Kodla, District: Ganjam.

: Applicant

- Versus -

1. The Director of Census Operations  
Orissa, Bhubaneswar.
2. The Deputy Director,  
Census, Regional Tabulation Office,  
At/Po: Berhampur, Dist: Ganjam.
3. Union of India represented by the  
Secretary to Government of India,  
Ministry of Home Affairs, New Delhi : Respondents.

For the Applicant

: M/s K. N. Sinha, A.S. Nandy,  
Miss. Tapaswini Sinha,  
Advocate.

For the Respondents

:

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.
-

J U D G M E N T

N. SENGUPTA, MEMBER (J)

For admission mainly two questions arise viz

(i) whether the application **is in** time and (ii) whether this Tribunal has jurisdiction to grant all the reliefs asked for by the applicant.

2. A brief statement of the facts alleged by the applicant may be made. During the census operations of 1981-82 the applicant was appointed temporarily as a Tabulator. In 1982 he was served with a notice of termination of Service under R.5(1) of the C.C.S. (Temporary Services) Rules, 1965 and his services were terminated with effect from 28.2.1982. As the services of the applicant were to be terminated, the Deputy Director of Census issued a certificate of no objection for registration of his name in the Employment Exchange for appointment elsewhere. As the census operations were closed and a large number of persons were discharged, other offices were informed of such discharge of personnel to consider their appointment in those offices, but none of the offices offered appointment to the applicant. In 1987 on learning that Respondent No.1 was going to sponsor some names for appointment in the office of the A.G., made an application on 13.6.1987 and the A.G. did not consider the cases of the persons on the ground that the recommendation was to be made by the Staff Selection Committee. On 2.8.89 the applicant made a representation to the Home Minister, Government of India, but no reply has been received. As no reply was received from the Home Ministry Government of India, a representation

was made to the President of India on 5.12.89 which has been forwarded to the Home Ministry for disposal. Applicant has averred that even though he was discharged from service, some of his juniors were retained in service thereby he was discriminated against; the reliefs claimed are (i) to quash the order of termination holding the same to be illegal, (ii) to direct the respondents to provide an alternative appointment to the applicant and (iii) to direct the Home Ministry, Government of India to dispose of the representation.

3. Since the question now being decided is whether the case can be admitted, we refrain from speaking anything on the merits of the case. The termination was in 1982, therefore there can be no doubt that the grievance in respect of which relief No.1 of this application is asked for had arisen more than 3 years prior to the coming into being of this Tribunal, hence that prayer is barred by limitation under section 21(2) of the Administrative Tribunals Act, 1985.

4. Mr. Sinha has contended that as the applicant's representation has not yet been disposed of, the prayer for a direction to dispose of the representation can be given. On reading Section 20(2) of the Administrative Tribunals Act, 1985, it would be clear that the representation must have been made under a service Rule. Mr. Sinha has not been able to show any rule providing for a representation to be made to a ministry of the Government of India. No representation, but only a memorial in certain circumstances lies to the President, admittedly no such circumstances exist. It is, therefore, not

possible to give any direction with regard to the so called representations by the applicant.

5. This Tribunal has the power to adjudge an order of termination to be invalid and order re-instatement in service but has no jurisdiction to order for providing alternative appointment unless sanctioned by rules.

6. We make it clear that all that has been stated above would be no bar for the respondents to dispose of the petition made by the applicant to the Home Department or to give him any appointment.

7. The application is rejected as not admitted.

*B. S. S. S.*  
.....17.7.90  
VICE-CHAIRMAN

*M. S. S. S.*  
.....17.7.90  
MEMBER (JUDICIAL)

