

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 263 of 1990

Date of Decision .. 15th April, 1991
Ganesh Behera ... Applicant

Versus

Union of India & Others Respondents

M/s. Devanand Mishra,
Deepak Mishra, R.N. Naik, ... For Applicant
A. Deo, B.S. Tripathy,
P.P. Panda, Advocates

M/s. T. Dalai, Addl. Sr.
Standing Counsel (Central) ... For Respondents

C O R A M

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

A N D

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

N. SENGUPTA, MEMBER (J), The applicant was given an Adhoc appointment as Junior Scientific Assistant, Gr. II in the Interim Test Range, Chandipur. The applicant's case is that he joined the post on 31.5.1989 and at the time of his joining, he furnished an information sheet containing statements relating to pendency of any case in any Court of Law,

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University or other authorities and he stated that no case was pending against him. A Police verification was to be made and the police reported subsequently that ~~an~~ A.G.R. Case No. 284 of 1987 was pending against him in the Court of the S.D.J.M., Jharsuguda. The pendency of this case was un-known to him prior to the report of Police verification. After coming to know of this report of the Police, he went to Jharsuguda and found that the Principal, of Jharsuguda College had lodged an F.I.R. against him and other students, which gave rise to that case. He did not receive any summons in that case and through a Lawyer, engaged by him ~~he~~ learnt that the case was in the copy stage. Making these allegations the applicant has ^{- prayed -} ~~paid~~ for a direction to the respondents not to terminate his services and to regularise his service as Junior ^{- Scientific -} ~~Scientific~~ Assistant, Gr.II.

2. The respondents, in their counter have averred that the applicant was given an adhoc appointment subject to the report of Police verification and the adhoc appointment was necessary for urgency in manning a project. The D.I.G. of Police, Special Branch, Cuttack and the S.P., Sambalpur reported that the applicant was involved in Jharsuguda P.S. Case No. 79 under Section U/Ss. 147/148/341/337/452/426/323/149 I.P.C. while he was a student in Jharsuguda Engineering School in the year 1987. After receipt of the said report, a decision was taken to terminate the services of the applicant as the organisation is a sensitive one, and it is risky to engage a person whose antecedents are

M. S. Das
15/4/91

not clean. In pursuance of the said decision, the services of the applicant were terminated on 11th July, 1990. On these averments the respondents ^{have prayed} ~~afraid~~ for the dismissal of his application.

3. We have heard Mr. Deepak Mishra, ~~the~~ Senior Learned Counsel for the applicant and Mr. A.B. Mishra, ~~Sr.~~ Learned Counsel for the respondents and perused the relevant records. Mr. A.B. Mishra has very sternly argued that as the applicant knew that his services were dependent on the on the report of verification by police and as the police reported as adverse, the applicant can not continue in service. It is true that if a person by furnishing false information gets an appointment, the appointment is invalid from its very beginning. But in order to judge whether the information furnished is false or not, it is to be ascertained whether the person who gave ^{it} knew it to be false or the information was furnished by him which he might have believed to be true. This Tribunal is not competent to investigate into the question whether the applicant stated about non-pendency of any case against him under a bonafide belief, therefore we refrain from discussing the matter further. If really the applicant is found to be guilty of the offences ^{alleged} ~~lodged~~ against him, he may not be a person fit to be appointed, but what the result of the trial would be is uncertain. The possibility that the allegations made against the applicant in the GR Case to be found to be untrue can not be ruled out. In the

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circumstances we deem it proper to direct that the respondents should consider and appoint him afreshed on adhoc basis subject to the condition that if the result of the GR Case goes against him, his appointment shall stand cancelled with effect from the date of the judgment in the Criminal case. For the intervening period, from the date of his discharge till his fresh adhoc appointment, the applicant will not be entitled to any ^{wages} ~~ways~~. In the present circumstances, it is not possible to grant the relief of a direction to regularise his services. The case is accordingly disposed of. No costs.

B.K. Sahoo
15.4.91
VICE - (CHAIRMAN)



M. S. Choudhary
15/4/91
MEMBER (JUDICIAL)

Central Administrative Tribunal
Cuttack Bench, Cuttack
April, 15, 1991/ B.K. Sahoo/