

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 292 of 1990

Date of Decision: 4.11.1992

D.V.L.N.S.Sharma

Applicant

versus

Union of India & Others

Respondents

For the applicant

M/s.V.Prithivi Raj
S.Prithivi Raj
J.N.Jethi
P.K.Nayak,
Advocates

For the respondents

Mr.U.B.Mohapatra,
Standing Counsel
(Central Government)

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C O R A M:

THE HONOURABLE MR.K.P.ACHARYA, VICE-CHAIRMAN

AND

THE HONOURABLE MR.K.J.RAMAN, MEMBER (ADMINISTRATIVE)

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1. Whether the reporters of local newspapers may be allowed to see the judgment ? Yes
2. To be referred to reporters or not ? No
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes

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JUDGMENT

MR.K.P.ACHARYA, VICE-CHAIRMAN, In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner prays to direct the respondents to regularise the services of the petitioner in the post of Electrician with effect from 14.2.1984 or in the alternative with effect from 27.9.1984 after quashing the impugned orders contained in Annexures-4,5,6,7 and 9 and to direct the opposite parties to provide all consequential service benefits accrued therefrom.

2. Shortly stated the case of the petitioner is that he was initially appointed as an Electrician on 14.2.1983 in the Government of India Text Book Press at Bhubaneswar for a period of 45 days. The services of the petitioner as an Electrician was extended from time to time. The petitioner filed an representation for regularisation in the post of Electrician. On 25.9.1985, the representation was rejected as contained in Annexure-4. On 18.8.1986, vide Annexure-5, the services of the petitioner was terminated with effect from the date of issue of this order and on the very same day vide Annexure-6 the petitioner was offered the post of Wireman in the same office and the petitioner is still continuing in the said post. Grievance of the petitioner relates to the termination of his services as Electrician. Hence this application has been filed with the aforesaid prayer.

3. In their counter the opposite parties maintain that the competent authority had no other option but to terminate

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the services of the petitioner as an Electrician because he had not possessed the minimum qualification necessary viz. the Electrical Supervisory Certificate on competency. Under the rules such qualification is prescribed as the minimum qualification and such qualification not having been attained by the petitioner, his services was rightly terminated and ^{it is} ~~those are~~ according to law. Therefore the termination order should not be quashed - rather it should be sustained. In a crux it is maintained that the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. P. K. Nayak, learned counsel for the petitioner and Mr. U. B. Mohapatra, learned Standing Counsel appearing for the opposite parties.

5. Mr. Nayak urged before us that at no point of time it was told to the petitioner about the minimum qualification that should have been attained by him. Because ^{of} ~~the~~ petitioner was sponsored by the Employment Exchange and after due consideration the competent authority appointed the petitioner as an Electrician. It was too late in the day on the part of the opposite parties to have come to a conclusion that the petitioner had not attained the minimum qualification necessary and therefore the order of termination is illegal, unjust and improper which is ought to be quashed.

6. On the other hand Mr. Mohapatra submitted that under rules it is mandatory to appoint ~~a~~ person to the post of Electrician if he has the minimum qualification of the Certificate as stated above. Regularisation is not permissible

under the rules and if any regularisation is made, the competent authority would be **penally** liable and therefore the petition should be dismissed.

7. We have given our anxious consideration to the argument advanced at the Bar.

8. At no point of time we have ever expressed our opinion that any fraud was committed by the petitioner over the opposite parties, but at the same time the opposite parties are duty bound to follow the rules in its strictest terms, especially when the matter involves expert knowledge ^{of an} ~~/electrician~~. An unqualified person may also unintentionally cause lot of harm ~~/while~~ operating the electrical apparatus. Therefore, in no circumstances we can give any direction for regularisation. Apart from the above to meet the argument of Mr. Nayak, we would unhesitatingly say that an administrative error if any, could be corrected by the competent authority and this was rightly and fairly not disputed at the Bar. Therefore in such circumstances we do not feel inclined to interfere with the order of termination. To ~~add to~~ this we must express our great satisfaction in the attitude exhibited by the opposite parties that instead of throwing the petitioner to run from post to pillar to earn his bread and butter, they have provided ^{him} ~~/with~~ a job, viz. the post of Wireman, so that he would not be completely deprived ~~of~~ from sustaining himself or his family members. In this regard another grievance was put up by Mr. Nayak that the case of the petitioner should now be considered for promotion to the post of Electrician. We refrain ourselves from expressing

any opinion on this point, because that is not the subject matter of the case, but we give leave to the petitioner to file a representation before the competent authority laying his grievances and the competent authority may pass orders according to law. Thus the application is accordingly disposed of leaving the parties to bear their own costs.

[Signature]

MEMBER (ADMINISTRATIVE)

[Signature]
4.11.92

VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench, Cuttack
dated the 4.11.1992 Sahoo

