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CENTRAL ADMINISTRATIVE TRIBUNAL

CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NOS: 389 and 390 OF 1990.

Date of decision: December 24, 1991.

Pankaj Kumar Pradhan Applicant

-Versus

Union of India and others Respondents

A N D

Balaram Behera Applicant

-Versus-

Union of India and others Respondents

Both the cases

For the Applicants : M/s. A.K. Bose, P.K. Ciri,
Advocates.

For the Respondents : Mr. P. N. Mohapatra, Addl.
Standing Counsel.

C O R A M:

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

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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J U D G M E N T

K.P. ACHARYA, V.C. Though I have heard Mr. A.K. Bose learned Counsel for the Petitioners and Mr. P.N. Mohapatra learned Additional Standing Counsel (Central) for the Opposite Parties in both the cases separately, this common judgment will govern both the cases, as it involves common questions of fact and law.

2. In Original Application No. 389 of 1990, Petitioner Shri Pankaj Kumar Pradhan, prays to quash Annexure-3 and to allow the Petitioner to continue in the Post of Beldar (Maintenance Section) of the Telecom Department or he may be allowed to join in the Post of store choukidar in the Office of the Opposite Party No. 3 unconditionally and a declaration be given that the Petitioner is deemed to be continuing in his Post since the date of his initial appointment i.e. 24th June, 1986 and the salary and wages of the Petitioner since the date of retrenchment be paid to him with 18% interest.

3. Shortly stated, the case of the Petitioner is that he was appointed as D. R.M., Beldar Maintenance Section under the Assistant Engineer Telecom (Civil) Sub-Division since the year 1986 being

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sponsored by the Employment Exchange. While continuing as such in the above post, the services of the Petitioner was retrenched with effect from 2nd November, 1989 by an order issued by the Opposite Party No.2. Being aggrieved by this order, the Petitioner filed an application under section 19 of the Administrative Tribunals Act, 1985 praying to quash the order of retrenchment and order to regularise the services of the Petitioner permanently in the Grade 'D' post. This forms ~~the~~ subject matter of Original Application No. 434 of 1989. This Bench by its judgment dated 29th June, 1990, had set aside the order of retrenchment and directed reinstatement of the Petitioner ~~from~~^{to} service. Further the case of the Petitioner is that though several posts in the Grade 'D' are lying vacant, no steps have been taken to regularise the services of the Petitioner. Though the Petitioner wants to join his post, which he was holding before retrenchment, the Petitioner was not allowed ~~to~~ to do so and the Petitioner has not been paid the wages to which he is legally entitled ^{to} by virtue of the judgment of this Bench. Hence this application has been filed with the aforesaid prayer.

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4. The case of the Petitioner Shri Balaram Behera is exactly same and the prayer of Balaram is also exactly same forming subject matter of O.A. 390 of 1990 which has been heard on merits after ~~XXXX~~ hearing argument in O.A. 390 of 1990.

5. The stand taken by the Opposite Parties in their counters submitted both the cases is also same.

6. The Opposite Parties have pleaded that the case is barred by the principle of resjudicata, in view of the direction given in O.A. 434 of 1989 . It is further maintained by the Opposite Parties ~~is~~ that the Petitioners had no right to claim ~~for~~ a specific post. The Petitioners did not deliberately join the post ^{from} in which they were retrenched even though they were invited to join the post and therefore, they were not entitled to any emoluments on the principles of 'no work no pay'.

7. I have heard Mr. A.K.Bose learned Counsel for the Petitioners and Mr. P.N.Mohapatra ~~learned~~ Additional Standing Counsel for the Central Government in both the cases separately. In O.A. No.434 of 1989 the Bench ^{has} given the following directions:

" In such circumstances, in our considered view, the endsof justice would be adequately met if the period from the date of their retrenchment to 1.7.1990 counts towards their seniority and this period is taken

into account while absorbing them as regular employees of the Department."

^{From}
^ The above it is clear that the order of retrenchment is quashed and the period from the date of their retrenchment to 1.7.1990 will count towards their seniority and nothing more or nothing less has been ordered by the Division Bench. Not only the parties are bound of these directions but also functioning as a Single Judge , I have no other alternative but to respect the judgment of the Division Bench . In pursuant to this directions, the Departmental Authorities have issued notice to the Petitioners to join the post. The case made out by the Petitioner is that soon after pronouncement of the judgment i.e. dated 29th June,1990, the Petitioners reported to duty about which there is no evidence before me. From Annexure-R/1, in O.A. 389 of 1990, it is found that the Petitioner Shri P.K.Pradhan, reported to duty on 12.11.1990 and from Annexure-R/1 attached to counter in OA 390 of 1990, Petitioner Shri Balaram Behera reported to duty on 30th October,1990. Therefore, there is substantial force in the contention of Mr.P.N.Mohapatra learned Addl.Standing Counsel that the Petitioners are not entitled to

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any emoluments till 30th October, 1990. So far as Pankaj Kumar Pradhan, is concerned, and Balaram Behera is concerned, they may ~~not~~ be paid wages from 30th October, 1990.

both
8. Thus, the applications are accordingly disposed of leaving the parties to bear their own costs.



[Signature]
..... 24.12.91
VICE CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack/K. Mohanty.
December 24, 1991.