

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 105 of 1990.

Date of decision : November 9, 1992.

Anil Kumar Roy ...

Applicant.

Versus

Union of India and others ...

Respondents.

For the applicant ...

M/s. B. Pal,
O. N. Ghosh,
S. C. Parija,
Advocates.

For the respondents ...

Mr. Akhaya Kumar Misra,
Addl. Standing Counsel
(Central)

C O R A M:

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

A N D

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

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1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ? *ND*
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., In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays for a direction to be issued to the Respondents 1 to 3 to promote the applicant to the post of Upper Division Clerk(Junior Accountant) treating the abolition of three posts as void, illegal and not binding and it should be declared that the applicant is deemed to have been promoted to the vacant promotional post in the cadre of Upper Division Clerks/Junior Accountant and a further prayer is to declare that the exclusion of reservation rule for promotion to the post of U.D.Clerk/Junior Accountant, is void, illegal and contrary to the Constitution and in consequence thereof the applicant is entitled to be promoted to the post of U.D.C./Junior Accountant with effect from 20.10.1981.

2. Shortly stated, the case of the applicant is that he belongs to the Scheduled caste community and he joined as an L.D.Clerk in the Office of the Chief Administrator, Dandakaranya Development Project on 20.10.1976. The applicant claims promotion to the next higher post which has since been abolished by an order of the Government of India dated 3.11.1989, contained in Annexure-4. Hence, this application has been filed with the aforesaid prayer.

3. In their counter, the respondents maintained that the Government always has the right to abolish such posts which are not required in a particular organisation and that apart the Dandakaranya Development

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Project is being wound up and employees are being deployed to surplus cell to be adjusted in other Departments. In a crux, it is maintained that the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. B. Pal, learned counsel for the applicant and Mr. Akhaya Kumar Misra, learned Addl. Standing Counsel (Central) for the respondents. The undisputed position is that Dandakaranya Development Project has been practically wound up and the employees working in the said Project have been deployed to Surplus Cell for being adjusted elsewhere. The further undisputed position is that the applicant has also been deployed to the Surplus Cell. Therefore, in our opinion, no further orders are warranted to give any relief to the applicant except that it was submitted by Mr. Pal that opportunity should be given to the applicant to reagitate the issue relating to his claim for higher post on the basis of the fact that the applicant is a member of the Scheduled Caste so that Section 11 of the Code of Civil Procedure would not become operative against the applicant.

5. In regard to the prayer of the applicant for his promotion to the next higher post, and his grievance regarding abolition of posts vide Annexure-4, it is held that no orders could be passed giving such relief to the applicant in view of the fact that the applicant has been deployed to the Surplus Cell and might have been posted elsewhere by now.

6. As regards his second prayer, leave is given to the applicant to reagitate the issue before the appropriate

authority under whom now he is serving.

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


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MEMBER (ADMN)


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VICE-CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
November 9, 1992/Sarangh.

