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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO:193 OF 1991

DATE OF DECISION: 8TH SEPTEMBER, 1993

Bibhuti Bhushan Sahu Applicant

versus

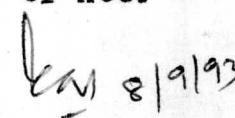
Union of India and others Respondents

(For Instructions)

1. Whether it be referred to the reporters or not? NO
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not?


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

08 SEP 93


(K.P. ACHARYA)
VICE- CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 193 of 1991

Date of decision: 8th September, 1993

Bibhuti Bhusan Sahu	...	Applicant
 Versus		
Union of India & Others	...	Respondents
For the Applicant	...	M/s Devanand Misra, Deepak Misra, R. N. Naik, A. Deo, Advocates
For the Respondents	...	Mr. Aswini Kumar Misra, Standing Counsel (CAT)

C O R A M:

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

AND

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN.)

JUDGMENT

K.P. ACHARYA, V.C. In this application under section 19 of the Administrative Tribunals Act, 1985, the petitioner prays for a declaration that the deemed retrenchment/termination of service of the petitioner is illegal, null and void and to pass appropriate orders directing the Opposite Parties to give alternative equivalent post to the Petitioner from the date when other employees of the Canteen were given alternative appointments.

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2. Shortly stated the case of the petitioner is that vide order dated 11th September, 1987 contained in Annexure I, he was appointed to the post of a Clerk in the Departmental Tiffin Room, Department of Electronics, (C.C.I. Wing), National Informatics Centre (ER), Bhubaneswar. The Tiffin Room was closed as it appears from Annexure 3.. The services of the Petitioner was dispensed with. Therefore, this application has been filed with the aforesaid prayer.

3. In their counter, the Opposite Parties maintained that the concerned authority had no option but to terminate the services of the Petitioner because of closure of the Tiffin Room which consequently led to abolition of the post in question. So far as the contention of the Petitioner is that others who had been retrenched have been adjusted in other post is absolutely not correct. No other person has been adjusted in any of the post. Hence the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. Deepak Misra learned counsel for the petitioner and Mr. Aswini Kumar Misra learned Standing Counsel (CAT). After giving our anxious consideration to the arguments advanced at Bar, we are of opinion, that once the Tiffin Room is ordered to be closed, necessarily the services of the staff are to be dispensed with. In the present case the petitioner was a temporary appointee with a clear stipulation in the appointment order that the appointment is purely provisional and

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temporary. In such circumstances, we find no merit in the prayer of the petitioner to unsettle the retrenchment of the petitioner.

5. The Petitioner prays for a direction to the Opposite Parties for adjusting the petitioner in some other post and to the above effect, the petitioner has made representation to Opposite Party No.1 as contained in Annexure 4 dated 6.9.1990 which may ^{be} sympathetically considered and be disposed of within 60 days from the date of receipt of a copy of the judgment if not already disposed of.

6. Mr. Deepak Misra learned counsel appearing for the petitioner submitted that the Petitioner has not received his emoluments from 16.8.1990 till 8.4.1991. The Opposite Parties should be directed to pay the emoluments. From Annexure 3 dated 4th September, 1990 it is noticed that the Tiffin Room has been closed with effect from 16th August, 1990 dispensing with the services of the petitioner with retrospective effect which is not contemplated under the law. That apart in the order of appointment, contained in Annexure 1 read with Annexure R. 2 annexed to the counter, it would be found that the appointment is liable to be terminated with one months' notice on either side without reasons being assigned. In the counter, it is stated that the applicant's service was not terminated. He was deemed to have ^{been} retrenched consequent on the closure of the Departmental Tiffin Room and therefore,

he is not entitled to any emoluments. We do not agree with the contention of the learned Standing Counsel (CAT), Mr. Aswini Kumar Mishra appearing for the Postal Department. Since there was a clear stipulation in the order of appointment contained in Annexure 1 that one months' notice must be given to the petitioner, Therefore, he is entitled one months' notice from 4th September, 1990 or in lieu thereof one months' salary. Therefore, we would direct that the Opposite Parties should pay to the petitioner one months' salary from 4th September, 1990 within 45 days from the date of receipt of a copy of the judgment.

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

4.2.1993
MEMBER (ADMINISTRATIVE)
08 SEP 93

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VICE-CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack/K. Mohanty
8th September, 1993.