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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 371 of 1991

Date of Decision: 6.11.1992

Bibhu Prasad Mohapatra

Applicant

versus

Union of India & Others

Respondents

For the applicant

M/s.Devanand Misra
Deepak Misra
R.N.Naik, A.Deo,
B.S.Tripathy,
P.Pandz, Advocates

For the respondents

M/s.Ashok Mohanty
P.R.Dash,
T.Ratho
Miss.S.Mohanty
Advocates

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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? Yes 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., In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays for a direction to be issued to the respondents to regularise the services of the applicant as Junior Clerk and to allow other consequential service, financial benefits.

2. Shortly stated, the case of the applicant is that he was appointed as a Junior Clerk on ad hoc basis in the Office of Welfare Commissioner, Labour Welfare Organisation at Bhubaneswar vide memo No.2/3/76-II sated 5.9.1988. The name of the applicant was sponsored by the Employment Exchange. The applicant continued as such till August, 1991 when vide Office order passed by the Respondent No.2 bearing No.2/3/76-Vol.II dated 30.8.1991 the services of the applicant were terminated with effect from 30.8.1991. Hence, this application has been filed with the aforesaid prayer.

3. In their counter, the respondents maintained that originally one Mr.M.K.Ghosh, a regular incumbent was occupying the post from which the applicant has vacated. Mr.M.K.Ghosh was promoted to a higher post on adhoc basis and this post in question having fallen vacant the applicant was appointed against that post also on adhoc basis. For some reason or the other, Mr.M.K.Ghosh had to revert back to his substantive post and consequently the adhoc service of the applicant was terminated on that count. In such a situation the grievance of the applicant is baseless and deserves no merit. The case

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being devoid of merit is liable to be dismissed.

4. We have heard Mr. Deepak Misra, learned counsel for the applicant and Mr. Ashok Mohanty, learned counsel appearing for the respondents at a considerable length. Mr. Misra urged that the services of the applicant should have been regularised in the post in question because of the services rendered for a very long period. On the other hand, Mr. Mohanty submitted that the applicant was never appointed on regular basis but on adhoc basis due to the promotion of Mr. Ghosh. The adhoc promotion given to Mr. Ghosh having lost its force, or in other words, for some reason or the other Mr. Ghosh having come back to his substantive post, there was no other option left for the competent authority but to terminate the services of the applicant. We think there is substantial force in the contention of Mr. Mohanty but at the same time we must say that it was told to us that several other posts of similar nature have been sanctioned and have been placed at the disposal of the Welfare Commissioner about which Mr. Mohanty has no instructions. In such circumstances, we are unable to give any specific directions. In case, the statement made by Mr. Deepak Misra on instructions is correct, then in that case, the applicant should be appointed against one such post subject to the condition that there would be no other officer senior to him, whose services have been terminated. In case, instructions given to Mr. Deepak Misra is not correct then the next vacancy from today should be filled up by the present applicant subject to

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the condition that no other senior officer has been retrenched from the post of Junior Clerk.

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

[Signature]

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MEMBER (ADMN.)

[Signature]
6-11-92

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VICE-CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack
November 6, 1992/Sara

