

1 2  
CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NOS: 182/92, 129/92, 90/92,  
152/92, 154/92 and 153/92.

Date of disposal : April 30, 1992

S.C.Acharya and others

: Petitioners

-Versus-

Union of India and others

: Opp. Parties

For the Petitioners  
(In all the cases)

: Mr. Antaryami Rath, A.C.Rath,  
Advocates.

For the Opp. Parties  
in all the cases

: Mr. P.N.Mohapatra, Addl. St.  
Counsel (Central)

....

CORAM:

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

A N D

THE HONOURABLE MR. C.S. PANDEY, MEMBER (ADMINISTRATIVE)

....

1. Whether reporters of local papers may be allowed to see the judgment? Yes.
2. To be referred to the reporters or not?
3. Whether Their Lordships wish to see the fair copy of the judgment? Yes.

....

11211

JUDGMENT

K.P.ACHAR YA, V.C.

We have heard Mr. Antaryami Rath learned Counsel appearing for the Petitioners in all the above mentioned cases and Mr. P.N.Mohapatra learned Additional Standing Counsel (Central) appearing for the Opposite Parties in all the cases.

2. Shortly stated the case of the Petitioners in all the above mentioned cases is that they were all working as Sepoy(Group 'D') post in the Office of the Collector Central Excise, Bhubaneswar. Certain lower division Clerical Posts fell vacant and as the posts were not filledup, the Collector had appointed the Petitioners in all these cases to work as Lower Division Clerk temporarily on ad-hoc and temporary basis for a period of 89 days with an artifitial break. They were allowed to continue for a good bit of time. Ultimately those posts were to be filled up by the candidates sponsored by the Staff Selection Commission(S.S.C.) and therefore, the services of the Petitioners as L.D.C. were terminated and they were being asked to go back to their former posts. Hence all these applications have been filed by the affected parties with a prayer to order regularisation of their services in those posts.

3. In their counter, the Opposite Parties maintained that the appointment of the Petitioners being of temporary nature, no civil right vested over the Petitioners and therefore, the substantive appointment of the petitioners is being in the cadre of Sepoy, they were rightly asked to go back to the same post because <sup>of</sup> the directive of the Central Government, <sup>that</sup> the Posts of Lower Division Clerks are to be filledup by the candidates

113//

who have been sponsored by the Staff Selection Commission.

Since there is no illegality in the order passed by the Collector, Costums, the case being devoid of merit is liable to be dismissed.

4. Mr. Antaryami Rath learned Counsel for the Petitioner submitted that in view of the long services rendered by each of the Petitioners (more than four years), the liberal view expressed by the Honourable Supreme Court for regularisation should have been followed by the Collector Costums and if not followed by him this Bench should follow the same and give necessary redress to the grievances of all the petitioners. There is absolutely no dispute regarding the contention of Mr. Rath that regularisation of services of a particular person can be ordered if he has served for a good bit of period and without any bar having been created by the Central Government. The admitted fact before us is that the posts of LDCs in all Central Government offices are to be filled up by the candidates who have been sponsored by the Staff Selection Commission. Such being the situation, and in addition to the same, the petitioners being temporary appointees only to carry on the work till regular appointments are made through S.S.C, in our opinion <sup>have been</sup> neither ~~have they vested~~ <sup>with</sup> any civil rights nor have they any right to continue in the said post. In such circumstances stated above, we direct that as soon as the candidates sponsored by the S.S.C. give their joining report in respect of Lower Division Clerk Post in question, the present petitioners are bound to vacate the post of LDC. and they

1-5  
114/1

should go back to their substantive posts of Sepoy.

5. Mr. Mntaryami Rath further submitted that the total number of LDC posts are 18 in number. Out of those 18 posts, 13 candidates are sponsored by the S.S.C who are required to hold 13 posts. Petitioners are 18 in number who are now holding those posts. Therefore, atleast 5 posts should now be allowed to be held by some of these petitioners. We cannot give any direction on this matter. This is a matter completely left to the discretion of the Collector, Customs before whom the Petitioners may file their representation and he would decide the matter according to law.

6. Thus, the application is accordingly disposed of leaving the parties to bear their own costs. The stay order passed in these above mentioned cases automatically stands vacated.

7. Since common question of law and fact are involved in all these cases, this common judgment will govern all these cases mentioned above.

8. Lastly it must be mentioned that we have heard all these cases one after the other separately from the learned counsel for both sides.

Chenay  
\_\_\_\_\_  
MEMBER (ADMINISTRATIVE)

30.4.92  
Central Administrative Tribunal  
Cuttack Bench/K. Mohanty/30.4.92

K.M.  
\_\_\_\_\_  
30.4.92  
VICE CHAIRMAN

