

(9)

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.370 OF 1992  
Cuttack this the 15<sup>th</sup> day of December, 1999

Suresh Chandra Acharya

Applicant(s)

-Versus-

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? ✓
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN



15.12.99  
(G.NARASIMHAM)  
MEMBER (JUDICIAL)

6

10

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 370 OF 1992  
Cuttack this the 15<sup>th</sup> day of December, 1999

CORAM:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN  
AND  
THE HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)  
...


Suresh Chandra Acharya  
aged about 33 years  
S/o. Late Damodar Acharya  
of Dhanjaypur, PO: Digapada  
P.S. Kodala Dist: Ganjam - presently  
working as Compiler in the Office of the  
Deputy Director Census Operations,  
Regional Tabulation Centre,  
Berhampur, Dist: Ganjam

...

Applicant

By the Advocates : M/s.R.Mohapatra  
A.Kanungo  
D.P.Dhalasamant  
A.K.Patnaik

-Versus-

- 
1. Union of India represented by the  
Secretary, Ministry of Home Affairs  
New Delhi
  2. Registrar General of Census  
Government of India  
2-A, Manisingha Road  
New Delhi-110011
  3. Director of Census Operations  
Orissa, Bhubaneswar  
Dist: Puri
  4. Deputy Director of Census Operations  
Regional Tabulation Centre,  
Berhampur  
Dist: Ganjam

...

Respondents

By the Advocates : Mr.A.K.Bose  
Sr.Standing Counsel  
(Central)

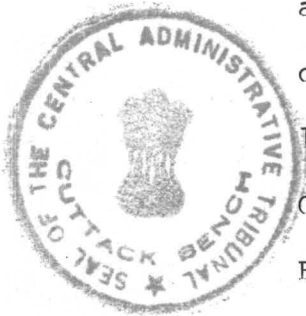
...

ORDER

MR.G.NARASIMHAM, MEMBER(JUDICIAL): Applicant, who, for sometimes served under the Census Department represented by the respondents prays for his reinstatement with all consequential benefits or for alternative employment in the Directorate.

2. During census operations 1981-82, the applicant was temporarily appointed as a Tabulator. After the census operations, his services were terminated with effect from 28.2.1982. As some juniors to him were retained in the Department, he filed O.A.213/90. This Tribunal in order dated 17.7.1990 disallowed the application, but made it clear that the respondents should dispose of the application made by the applicant to the Home Department or to give him any appointment. Thereafter in the year 1991 he was appointed as a Compiler and posted in the Office of the Deputy Director, Census Operations, Berhampur. The service of the applicant was terminated on the expiry of the contract period with effect from 29.2.1992(Annexure-1). Then the applicant submitted representation to Res.1 for his absorption in regular establishment considering his past experience and service, because there are nearly 60 posts of Assistant Compilers in the Head Office remaining vacant. The procedure for filling up these vacancies is by way of selection through Staff Selection Commission, according to him is contrary to law, because retrenched employees like him have a preferential claim over the vacancies.

3. The Department in their counter admit that there are 45 vacancies. But as per departmental rules, those



can be filled up through Staff Selection Commission. Retrenchment, per se, is not a sufficient ground for automatic absorption. Suitability of the candidates vis-a-vis the requirements of related recruitment rules and merit of the candidates are also factors that influenced consideration for absorption. In fact applicant's claim that he has a preferential right as a retrenched employee has been disallowed by this Tribunal in O.A.213/90. As per the observation of the Hon'ble Tribunal in considering his past experience he was appointed on contract basis in the Regional Tabulation Officer at Berhampur. That engagement was purely temporary and as the contract period was over and no work subsisted his services have been terminated and there is no illegality in terminating his services. Respondents deny that juniors of the applicant have been retained in the Department.

4. We have heard Shri D.P.Dhalasamant, learned counsel for the applicant and Shri A.K.Bose, learned Sr.Standing Counsel appearing for the respondents. Also perused the records.

The sole point for consideration is whether a retrenched employee has a preferential right to be appointed against the existing vacancy. Vacancies are filled up by candidates through Staff Selection Commission and that the applicant could not cite any authority that such procedure is illegal. On the other hand, as has been held by the Apex Court in Dr.Surendra Singh case reported in AIR 1990 SC 2775, even adhoc employees serving for more than 13 years, the appointments



9

2

13

of which were made de hors the rules are not entitled for regularisation.

In the result, we do not see any merit in this application which is accordingly dismissed leaving the parties to bear their own costs.

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
15.12.99  
B.K.SAHOO



15.12.99  
(G.NARASIMHAM)  
MEMBER(JUDICIAL)