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CENTRAL ADMINISTRATIVE TRIBUNAL : CUTTACK BENCH; CUTTACK.

ORIGINAL APPLICATION NO. 623 OF 1992.

Cuttack this the 10th day of March, 1997.

N. Jayasree. Applicant.

Versus.

Union of India and others. ... Respondents.

(FOR INSTRUCTIONS)

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

Somnath Som.
(SOMNATH SOM)
VICE-CHAIRMAN. (0/3/97)

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ORIGINAL APPLICATION NO. 623 OF 1992.

Cuttack this the 10th day of March, 1997.

CORAM :

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN.

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N. Jayasree, 38 years, w/o
V.A.Narayana, Jatni-Bachhara Road,
District-Puri, at present serving as
P.G.T. in the discipline of Economics in
S.E.Railway Mixed Higher Secondary School,
Khurda Road, Jatni, Dist-Puri.

.... Petitioner.

Versus.

1. Union of India, represented through its General Manager, S.E.Railway, Garden Reach, Calcutta- 43.
2. Divisional Railway Manager, S.E.Railway, Garden Reach, Calcutta-43.
3. Chief Personnel Officer, S.E.Railway, Garden Reach, Calcutta- 43.
4. P.L.P. Rao, P.G.T.English Medium Higher Secondary School, Bilaspur, who is under orders of transfer to S.E.Railway Mixed Higher Secondary School, Khurda Road, District-Puri.

... Respondents.

ADVOCATES :

For the Petitioner.

:- M/s. A.K.Mishra,
S.K.Das and
S.B.Jena.

For the Respondents. 1 to 3

:- M/s. B. Pal, and
O.N.Ghosh.

For the Respondent No. 4

:- M/s. B.L.N.Swamy,
A.K.Barik and
A.K.Rath.

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O R D E R,

SONNATH SOM, VICE-CHAIRMAN: This is an application filed under Section 19 of the Administrative Tribunals Act, 1985 by N. Jayasree, serving as Post-Graduate Teacher in the South Eastern Railway Mixed Higher Secondary School at Khurda Road, Jatni. Respondent No. 4 P.L. Prabhakar Rao is another Post-Graduate Teacher in Economics at the same school at Khurda Road. It is relevant to note that P.L. Prabhakar Rao has filed another O.A. No. 787 of 1996 which has been heard along with this Original Application. But as reliefs claimed in these two applications are different, though inter-linked, these two Original Applications are being disposed of by two different orders.

2. Briefly stated, the case of the petitioner is that she was working as Trained Graduate Teacher (T/M-Arts) in the school at Jatni. In order dated 17.11.1992 at Annexure-1 she was promoted to officiate in the post of Post-Graduate Teacher in Economics purely on ad hoc basis for a period of six months or till such time an empanelled Teacher is posted whichever is earlier against the vacancy caused by superannuation of one Suniti Banerjee. It was specifically mentioned in this order that the promotion order is being issued purely on ad hoc basis and will not confer on the petitioner any claim or title to continue as such or for similar promotion in future in preference to her seniors. Basing on this order at Annexure-1 issued by the Chief Personnel Officer's office, Garden Reach, Calcutta, the Senior Divisional Personnel Officer, Khurda Road,

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issued the order dated 1.12.1992 at Annexure-2 promoting the petitioner to officiate as Post-Graduate Teacher (Economics) exactly on the same terms as in the order at Annexure-1. On 20.11.1992 however vide Annexure-3 P.L.P. Rao, P.G.T. (Economics) was transferred from Bilaspur to the school at Khurda Road against the existing retirement vacancy of Smt. Suniti Banerjee. This was ordered in cancellation of the earlier Memo dated 17.11.1992 at Annexure-1. Therefore, the petitioner had come up before this Tribunal praying for quashing the order at Annexure-3 posting P.L. Prabhakar Rao to Khurda and cancelling the order giving her ad hoc officiating promotion to the post of Post-Graduate Teacher in Economics at Khurda Road, with a further prayer that a direction be issued to the respondents to continue the petitioner in the post of Post-Graduate Teacher in Economics. The matter was taken up on 15.12.1992 and as an interim measure, it was directed that the reversion of the petitioner from the post of Post-Graduate Teacher (Economics) to the post of Trained Graduate Teacher was stayed and the petitioner was ordered not to be disturbed from her present post.

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3. Case of the petitioner, in brief, is that she was given ad hoc officiating promotion to the post of Post-Graduate Teacher (Economics) only for three days and thereafter she should not have been reverted. It has also been stated that the order of cancellation of her promotion was passed without giving her any opportunity. The period of three days was not enough to judge her suitability to continue her in the higher post. It has also been stated that the impugned order at Annexure-3 is mala fide. It has further been submitted that on receipt of

the order appointing P.L.Prabhakar Rao to the post of Post-Graduate Teacher (Economics) in Khurda Road, the Principal of the school apparently submitted a note stating that even though the medium of instruction in the school is English, while imparting instruction the teacher has to speak in Oriya for better understanding of the students and as the petitioner knows Oriya, her retention would be in the interest of the students. In accordance with Annexure-3 P.L.Prabhakar Rao joined in the post of Post-Graduate Teacher (Economics) in the school at Khurda Road and the petitioner was shown against the post of Post-Graduate Teacher (History) and subsequently against the post of Post-Graduate Teacher (Mathematics), Thus both the petitioner and respondent No.4 were continuing in the same school at Khurda Road. In the above back-ground of the facts, prayer of the petitioner in this O.A. can be considered.

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4, The first point to be noted is that her appointment was on ad hoc basis which does not confer on her any right to continue. In any case in the order of her ad hoc officiating promotion to the post of Post-Graduate Teacher (Economics) it was specifically mentioned by the office of the Chief personnel Officer that she is allowed promotion for a period of six months or till such time an empanelled teacher is posted whichever is earlier. It is the admitted position that in the schools run by the Railways, posts of Post-Graduate Teacher are filled up not by available candidates in the same school but by a process of empanelment of the trained Graduate teachers.

Respondent No.4 is an empanelled Post-Graduate Teacher (Economics) and in the face of his posting at Khurda Road, the petitioner can have no claim whatsoever in terms of her order of ad hoc appointment to continue there in ad hoc capacity. A series of decisions have been placed before me by the learned counsel for the respondent No.4 in support of his submission that ad hoc appointment does not confer any right. This proposition is too well known to be supported by any authority. In any case, I refer to the decision of the Karnataka High Court in the case of Kallu Venkataraman v. The General Manager, South Central Railway, Hubli and another reported in Vol-36 1984 (2) page-238 in which his Lordship has observed as follows :

" ... Ad hoc promotion as held by numerous decisions of this Court and the Supreme Court does not confer any right on the person so promoted to the post which he holds on ad hoc basis."

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In view of this, the petitioner has no right to continue in the post of Post-Graduate Teacher (Economics) to which she was given ad hoc promotion. Her right to continue fails on another ground also. It appears from order dated 12.2.1993 (Annexure-1 to M.A.54/97) that subsequently she had been adjusted against the post of Post-Graduate teacher (History) and subsequently against the post of Post-Graduate Teacher (Mathematics). It was submitted by the learned lawyer for the petitioner that she is not teaching mathematics. Thereby the students of the school are being deprived of the benefit of instruction of a Post-Graduate Teacher (Mathematics). It is a pity that hearing of this matter has taken so much of time

and during this period, she has continued in the school at Khurda Road only by virtue of the stay order given by the Tribunal.

5. As regards the contention that the order at Annexure-3 was passed without giving her an opportunity. It needs only to be stated that as she had no right to the post and as her order of ad hoc appointment has been cancelled strictly in terms of the order of appointment on posting of an empanelled teacher, there was no necessity whatsoever to give her any opportunity to show cause against the order at Annexure-3. The order was not passed by way of punishment. Therefore, the next contention that a period of three days was not adequate to judge her suitability for the post of Post-Graduate Teacher(Economics) is also without any merit. Her ad hoc appointment was cancelled not because she was found unsuitable but because an empanelled teacher was posted there.

6. The note of the Principal that the petitioner knows Oriya and was required to explain matters in Oriya to the students while teaching Economics in English had obviously been given in order to give undue advantage to the petitioner. No notice of that can be taken in favour of the petitioner except to disapprove of such action. In any case, respondent No.4 who was posted in her place had also passed Matriculation with Oriya as one of the subjects. Moreover, when the parents of the students are sending their children to an English medium school, they would expect the children to be taught in English only. This ground is, therefore, totally misconceived.

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7. On consideration of the above, I hold that the Original Application is wholly devoid of any merit. The O.A. fails and is dismissed and the stay order is vacated. There shall be no order as to costs.

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(SOMNATH SOM) 10.3.97
VICE-CHAIRMAN.

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