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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 117 OF 1993

Cuttack, this the 22nd day of July, 1999.

Surendra Kumar Panda. Applicant.

- Versus -

Union of India & Others. Respondents.

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not? Yes.
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
22.7.99

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C O R A M:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

THE HONOURABLE MR. G. NARASIMHAM, MEMBER(JUDICIAL).

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Surendra Kumar Panda, aged about 24 years,
Son of late Bhagirathi Panda, at present
working as Junior Engineer (Civil) in the
Office of the Telecom Civil Sub Division,
Koraput, Dist. Koraput.

... Applicant.

By legal practitioner: M/s. Devanand Mishra, A. Deo, B. S. Tripathy,
P. Panda, D. K. Sahoo, Advocates.

- VERSUS -

1. Union of India represented by its
Secretary, in the Department of
Telecommunications, Sanchar Bhawan,
New Delhi.
2. Chief General Manager, Telecommunications,
Orissa Circle, Bhubaneswar, Dist. Khurda.
3. Superintending Engineer, Telecom,
Civil Circle, Telecom Administrative
Building, 3rd floor, Unit IX, Bhubaneswar.
4. Executive Engineer, Telecom Civil
Division, Sambalpur-2. Respondents.

S. Som. By legal practitioner: Mr. A. K. Bose, Senior Standing Counsel
(Central).

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O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN :

In this Original Application under section 19 of the Administrative Tribunals Act, 1985, applicant has prayed for a direction to the Respondents to regularise his services and for a further direction not to terminate the services of applicant. By way of interim relief, it has been prayed that during the pendency of this Original Application, operation of the order at Annexure-6 by which services of applicant were terminated w.e.f. 16-2-1993 should be kept in abeyance.

2. On 11.3.1993, by way of interim relief, it was ordered that the services of applicant should not be terminated without leave of the Court. This order was modified on 30.4.1993 when it was ordered that the interim order passed on 11-3-1993 stands vacated.

3. Applicant's case is that, he was engaged as Junior Engineer (Civil) in Telecom Civil Sub Division, Koraput after an interview for a period of 89 days in the order dated 30.4.1992, at Annexure-2. Since his appointment, applicant has been working satisfactorily. After expiry of 89 days in letter dated 27.7.92, his engagement was terminated w.e.f. 31.7.1992 and he was again re-appointed on 3.8.92. Again in another order dated 4.11.1992 his engagement was terminated on 9.11.1992 and he was again reappointed on 20.11.1992. Applicant has stated that he has continued in this fashion from the date of his first engagement and therefore, he ought to have been regularised as Jr. Engineer but the Executive Engineer, Telecom Civil Division, Sambalpur in his order dated

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6.2.1993, at Annexure-6, has terminated the services of applicant as temporary Junior Engineer (Civil) w.e.f. 16-2-1993(AN). That is how, he has come up in this Original Application, with the prayers referred to earlier.

4. Respondents, in their counter, have stated that applicant was engaged purely on casual basis for a period not exceeding 89 days till the selected regular candidate qualified on the basis of All India written examination, joins the post or till the work is completed. Respondents have further stated that in view of delay in getting names out of the All India examination and interview and in view of the urgent nature of Civil Work to be completed, applicant was engaged as temporary Junior Engineer (Civil) for a period of 89 days. His engagement for 89 days, in different spells does not give him any right to be regularised in the post. It is further stated that in the meantime, as a result of All India examination, 19 candidates have been selected for Orissa Circle and with their appointment, services of applicant have been rightly terminated. Respondents have also stated that in similar matters in certain other OAs filed by similarly placed Junior Engineers, the Tribunal have already taken the view that there is no question of regularisation of their services. On the above grounds, Respondents have opposed the prayers of applicant.

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5. In this 1993 matter, which has come up from the warning list, when it is called, learned counsel for applicant was absent nor was any request made on his behalf seeking adjournment. As this is a 1993 matter, it is not possible to drag on the matter indefinitely. We have, therefore, heard Mr. A. K. Bose, learned Senior Standing Counsel (Central) appearing for the Respondents and have also perused the records. Learned Senior Standing Counsel submitted that the show cause filed by the Respondents, in this case, may be taken as counter. We have accordingly, gone through the pleadings of both parties.

6. The admitted position is that applicant was appointed as a Junior Engineer (Civil) on temporary basis for a period of 89 days. He has continued in more than one spells with a gap on 89 days basis. Respondents have pointed out that the posts of Junior Engineer (Civil) are to be regularly filled up by All India written examination. Applicant, admittedly, has not been appointed through any examination. In his order of appointment, it has also been specifically mentioned that his engagement is for 89 days or till that time the regularly selected candidates are nominated or till the work is over whichever is earlier. In view of the fact that 19 candidates who have come through All India test, have been nominated to the Post in Orissa Circle, Respondents have no other option except to terminate the services of applicant in order to accommodate the regularly selected persons. As applicant is not a regularly selected candidate, he has no

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right to claim regularisation. In any case, the post against which applicant prays for regularisation is a Gr.'C' post and different schemes for regularisation did not cover Gr.C posts. In view of the above, we hold that the application is without any merit and the same is rejected. No costs.

(G.NARASIMHAM)
MEMBER(JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

KNM/CM.

22.7.99