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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

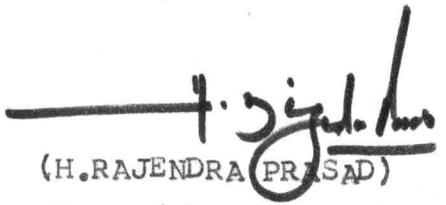
ORIGINAL APPLICATION NO;15 OF 1993

Date of decision:February 10, 1994

Suchita Mohanty ... Applicant
Versus
Union of India & Others ... Respondents

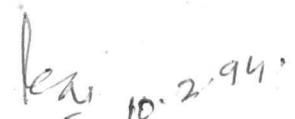
(FOR INSTRUCTIONS)

1. Whether it be referred to the reporters or not? *NO*
2. Whether it be circulated to all the Benches of the *NO* Central Administrative Tribunals or not?


(H. RAJENDRA PRASAD)

MEMBER (ADMINISTRATIVE)

10 FEB 94


(K.P. ACHARYA)

VICE-CHAIRMAN

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	Versus	
Union of India & Others	...	Respondents
For the Applicant	...	M/s. Devanand Misra, Deepak Misra, R.N.Naik, A.Deo, B.S.Tripathy, PaPanda, D.K.Sahu, Advocates.
For the Respondents	...	M/s. Ashok Misra, Senior Standing Counsel (Central) & Akshya Kumar Misra, Additional Standing Counsel (Central)

CORAM:

THE HONOURABLE MR. K.P. ACHARYA VICE CHAIRMAN
&
THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (A)

JUDGMENT

K.P. ACHARYA, V.C.

In this application under section 19
of the Administrative Tribunals Act, 1985, the
petitioner prays to allow her to continue in the
post of a Steno Grade 'C' in the ~~Department of~~
Telecommunication.

2. Shortly stated the case of the petitioner is that she was appointed as Steno Grade 'D' in the Department of Telecommunication. While she was working as such, she tendered her resignation and joined the Railway Board, New Delhi as a Stenographer. Due to her personal inconvenience she tendered her resignation from the Railway Board and came back and made an application to the Chief General Manager, Telecommunication for reappointing her. The Chief General Manager reappointed her on provisional basis subject to the condition that the higher authority would approve of the same. The higher authority did not approve of the same and directed immediate discontinuance of the petitioner from the post in question. Accordingly orders having been passed, this application has been filed with the aforesaid prayer.

3. In their counter, the Opposite Parties maintain that all the facts stated by the petitioner are true and correct. It is further maintained that rightly an order was passed by the higher authority to discharge the petitioner from service because her resignation has already been accepted and there was no
way

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good ground to allow the petitioner to continue in service and therefore, the Chief General Manager, Telecommunication had no option but to order discharge of the petitioner from service. In a ~~crux~~ it is maintained that the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. Deepak Misra learned counsel appearing for the petitioner and Mr. Ashok Misra learned Senior Standing Counsel (Central).

5. Initially when the case came up for hearing on 1st February, 1994, Mr. Akshya Kumar Misra learned Additional Standing Counsel (Central) had entered appearance on behalf of the Opposite Parties and had vehemently argued for the Opposite Parties leaving no stones unturned to uphold the order of the Departmental authorities. To-day when the Bench called upon Mr. Akshya Kumar Misra learned Additional Standing Counsel (Central) to render necessary assistance on behalf of the Opposite Parties, he declined to put forth any argument in view of the fact that he had received a communication from the Chief General Manager, Telecommunication fixing ^h of panel excluding the name of Mr. Akshya Kumar Misra to handle the briefs of the Telecommunication Department. We are surprised to find such step having been taken by the Telecommunication

Department. Mr. Ashok Misra insisted that Shri Akhya Kumar Mishra learned Additional Standing Counsel be allowed to assist him and therefore, we allowed Shri Akhya Kumar Misra to assist Shri Ashok Misra and we have heard Mr. Akhya Kumar Mishra learned Additional Standing Counsel (Central).

6. Now coming to the facts of the present case. Here is a case one would find that the Chief General Manager, Telecommunication has taken utmost sympathy and sympathetic view over the Petitioner. We whole heartedly appreciate the attitude of the Chief General Manager, Telecommunication namely Mr. Jilani. But he had no option in the matter when he had received orders from the concerned authority to discharge the services of the petitioner. We find there is substantial force in the contention of Mr. Ashok Misra and Mr. Akhya Kumar Mishra that once resignation tendered by the Petitioner has been accepted, no discretion is left with the concerned authority to reappoint the petitioner. True it is so, but here is a case where the distinguishing feature is that the petitioner had made an application to the Chief General Manager, Telecommunication for reappointment and the Chief General Manager with his kind heart took a sympathetic attitude to give a provisional appointment to the petitioner subject to the approval of the higher authorities. Of course the higher authority has literally followed the rules and has rejected the prayer of the petitioner to give her a reappointment. But in view

of the stay order, the petitioner is still continuing in the said post. In such circumstances, we would presume and we find that there is a post of Steno Grade 'D' available at the disposal of the Chief General Manager which would be filled up at one point of time. Therefore, instead of appointing any outsider, it would be beneficial for the interest of the Departmental authorities to appoint an experienced hand so that the work of the Government can be smoothly carried out. The experience gained by the petitioner would be contribute to the benefit of the department rather than a new and inexperienced hand. We would therefore, hold that instead of giving a fresh appointment to an outsider, the post in question, should be filled up by the petitioner as a fresh appointee. Hence we direct that the petitioner be treated as a fresh appointee with effect from the date on which appointment order is issued. And we hope it would be issued within ten days from the date of receipt of a copy of the judgment.

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

T. Gopal
MEMBER (ADMINISTRATIVE)
10 FEB 94

K. Mohanty
10.2.94
VICE-CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench/K. Mohanty/Feb 10, 94.