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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.72 OF 1993
Cuttack, this the 14th day of November, 1995

Miss Pratima Sundari Mohanty ... Applicant

-versus-

Union of India and another ... 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 Central Administrative Tribunal or not? no

N. Sahu
(N.SAHU)
MEMBER (ADMINISTRATIVE)

D.P. Hiremath
(D.P.HIREMATH)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 72 OF 1993

Cuttack, this the 14th day of November, 1995

CORAM:

HONOURABLE SHRI JUSTICE D.P.HIREMATH, VICE-CHAIRMAN
AND
HONOURABLE SHRI N.SAHU, MEMBER (ADMINISTRATIVE).

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Miss Pratima Sundari Mohanty,
D/o Kalu Charan Mohanty,
aged about 26 years,
at present residing at
Qr.No.2RA-39, Unit-1, Bhubaneswar-9
Dist.Puri

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Applicant

By the Advocates

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M/s Aditya Ranjan Tripathy
A.K.Patnaik, M.M.Tripathy &
P.Panda.

-versus-

- 1) Union of India,
represented through its
Director General (Labour Welfare),
Government of India,
Jaisal Mor Hare Single Storied Hutments,
Mansingh Road,
New Delhi-110 011.

- 2) Welfare Commissioner,
Government of India,
Ministry of Labour,
33 Ashoknagar,
Bhubaneswar-751 009

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Respondents

 By the Advocate

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Shri Ashok Mishra,
Senior Central
Government Standing
Counsel.

...

O R D E R

D.P.HIREMATH, VICE-CHAIRMAN

The applicant herein challenges

her order of termination dated 12.9.1991 (Annexure-3) in which it was stated by respondent No.2 that her services purely on ad hoc basis as per the terms and conditions of her appointment as Junior Clerk stood terminated with effect from 13.9.1991 afternoon. Challenging this order of termination as being illegal, the applicant prays to quash the impugned order and to direct the respondents to immediately regularise her services. The respondents have justified the termination order being quite in conformity ^{to} the conditions of service contained in the memorandum (Annexure-2) in which it was stated that the appointment may be terminated at any time without any notice and without assigning any reason thereof and that the appointment may also be terminated when alternative arrangement is made.

2. During arguments, the learned counsel for the applicant invited our attention to the decision of this Tribunal in O.A.No.399/91 (Sunil Kumar Panigrahi v. Union of India and others) pertaining to the same Department in which a similar case was presented for adjudication. While disposing

of that Application, this Tribunal referred to the decision in O.A.No.371/91 (Bibhu Prasad Mohapatra v. Union of India and others) rendered immediately prior to taking up that case and a direction was made in the following terms:

"In the circumstances stated above and keeping in view the order passed in the above O.A.No.371/91, we propose to give a similar direction, namely, the petitioner should be re-appointed in the next vacancy available in future. We would like to make it clear that since the services of the present petitioner was terminated after the services of Sri B.B.Mohapatra (petitioner in O.A.No.371/91) was terminated, the direction given in O.A.371/91 should be first implemented by giving an appointment to Sri Mohapatra and the next vacancy when available to the present petitioner."

It appears that the respondents took up the matter before the Supreme Court, and while disposing of the S.L.P., the Supreme Court modified the order in the following terms:

"If a vacancy arises, the respondent's - Sunil Kumar Panigrahi - case shall be considered on the same footing as the case of Bibhu Prasad Mohapatra - respondent in SLP(C) No.13338/93".

Shri Bibhu Prasad Mohapatra was the respondent in another S.L.P. disposed of by the Supreme Court. Our attention has also been invited to a direction made by this Tribunal on 30.12.1993 that one post

of Junior Clerk should not be filled up until further orders. The order was made after the respondents had put in appearance. Presumably there must have been a vacancy when this order came to be made. Though this Tribunal made a direction that the applicant before it in O.A.No.399/91 be appointed against the existing vacancy, the Supreme Court only made a direction that claim of the respondent before them, namely, Sunil Kumar Panigrahi shall be considered. In our view, if a similar direction, as given by the Supreme Court, is given, it would meet the ends of justice. Accordingly, while disposing of this Application, we direct that against the vacancy, which is directed to be kept unfilled by the orders of this Tribunal on 30.12.1993, the case of the applicant shall be considered. With this direction, the Original Application is disposed of.

Narasimhaswamy
(N.SAHU)
MEMBER (ADMINISTRATIVE)

D.P. Hiremath
(D.P.HIREMATH)
VICE-CHAIRMAN

Nayak, P.S.