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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No. 41 of 1994

Cuttack this the 13th day of December, 1994

Gokul Chandra Swain

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 Tribunals or not ?

— 1.51.1  
(H. RAJENDRA PRASAD)  
MEMBER (ADMINISTRATIVE)

(D. P. HIREMATH)  
VICE-CHAIRMAN

13 DEC 94

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CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No. 41 of 1994

Cuttack this the 13th day of December, 1994

C O R A M:

THE HONOURABLE MR. JUSTICE D.P.HIREMATH, VICE-CHAIRMAN

AND

THE HONOURABLE MR. H.RAJENDRA PRASAD, MEMBER (ADMINISTRATIVE)

...

Gokul Chandra Swain, aged about  
31 years, son of late Jadunath Swain  
At/P.O:Kutarang, P.S.Kendrapara  
Dist:Kendrapara at present working  
as Casual Labourer, Central Poultry  
Breeding Farm, At/PO:Bhubaneswar  
Dist:Khurda

... Applicant

By the Advocate: M/s. Deepak Misra  
A. Deo, B. S. Tripathy  
P. Panda, D. K. Sahu  
P. K. Mishra,

Versus

1. Union of India, represented by its  
Secretary in the Ministry of  
Agriculture, Department of Animal  
Husbandry and Dairying, Krishi Bhawan  
New Delhi-110001

2. Director,  
Central Poultry Breeding Farm,  
Bhubaneswar, PIN 751012  
District: Khurda

... Respondent/s

By the Advocate: Shri Akhaya Kumar Mishra  
Addl. Standing Counsel (Central)

...

OR D E R

D.P.HIREMATH, VICE-CHAIRMAN: Heard for admission, admitted and  
final  
heard for/hearing as well. The petitioner herein who was  
appointed by the respondents as per order at Annexure-3  
to the post of Assistant Foreman in pursuance of the  
Common Order passed by this Tribunal in Original  
Application 353 of 91 and Original Application 491

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of 1992 in which the present petitioner as well as Shri B.C. Patra staked their claim for being considered for appointment to Group C posts under the respondents. Admittedly the post of Assistant Foreman falls in Group C category of post~~s~~. Even they have clearly stated that after the order came to be passed by this Tribunal in the two Original Applications Shri Patra was appointed as Junior Computer which is also Group C post. This Tribunal had said in the order that both of them should be considered for the post of Assistant Foreman (Poultry) and depending on the suitability either of them may be appointed. While Shri Patra accepted the appointment to the post of Junior Computer which is also a Group C post, no one was left in the track as far as the Assistant Foreman (Poultry) post is concerned. Naturally, therefore, it must be deemed that when Annexure-3 came to be passed, the petitioner was found to be suitable and the order dated 7.1.1994 came to be passed.

2. The very next day, i.e. on 8.1.1994, order at Annexure-4 came to be passed keeping his appointment in abeyance until further orders on the plea that the said B.C. Patra, one of the petitioners had taken an exception. It is admitted at the Bar that adhoc appointment was given to the petitioner for the reason that reference was made to the concerned Ministry to that he may be permitted to carry over/post which is reserved for an S.T. and for non availability of such candidate. It is also submitted that awaiting the

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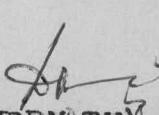
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order of the Ministry ~~an~~ an adhoc appointment on purely temporary basis was given for one year. If that be so then the objection of Shri Patra does not come in the <sup>have been</sup> picture in any way. He must be satisfied with his adhoc appointment as Junior Computer. If the respondents are awaiting clearance of the Ministry then there is no impediment of continuing the petitioner in the post in which he was appointed purely on adhoc basis at least for one year, and thereafter to consider what should be done with this appointment. In our view the order under Annexure-4 does not become sustainable in view of Shri Patra going out of zone of consideration ~~from~~ <sup>for</sup> the very post and accordingly we set aside the impugned order as per Annexure-4 and direct the respondents to appoint the petitioner as already ordered under Annexure-3 with the terms in which he was appointed. With these observations and directions the application is disposed.

No costs.

1.54.1.1  
 (H.RAJENDRA PRASAD)  
 MEMBER (ADMINISTRATIVE)

13 DEC 94

  
 (D.P.HIREMATH)  
 VICE-CHAIRMAN

B.K.Sahoo//