

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No. 195 of 1995

Cuttack this the 8th day of November, 1995


Bhubaneswar Behera ... Applicant(s)

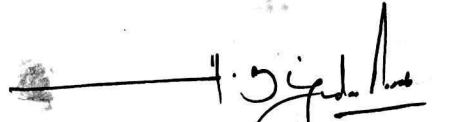
Versus

Union of India & Others ... Respondent(s)

(FOR INSTRUCTIONS)

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


(P. SURYA PRAKASHAM)
MEMBER (JUDICIAL)


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

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(6)

CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

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Cuttack this the 8th day of Nov 1995

C O R A M:

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

AND

THE HONOURABLE MR. P. SURYA PRAKASHAM, MEMBER (JUDICIAL)

...

Bhubaneswar Behera, aged about 29 years
S/o. Ranjit Behera, Resident of Bargaon,
P.O: Bhadra, Dist: Bolangir

...

Applicant

By the Advocate: Mr. K. B. Panda

Versus

1. Union of India, represented by
the Secretary in the Ministry of
Defence, New Delhi
2. General Manager,
Ordnance Factory Bolangir (P)
At: O.F. Badmal, PO: Badmal,
Dist: Bolangir - 767 770
3. Officer-in-charge,
Saintala Police Station
At/PO: Saintala, Dist: Bolangir

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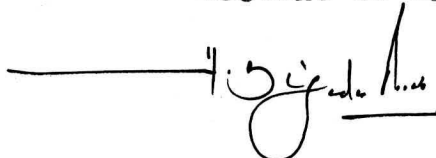
Respondents

By the Advocate: Mr. U. B. Mohapatra,
Addl. Standing Counsel (Central)

O R D E R

MR. H. RAJENDRA PRASAD, MEMBER (ADMN): The applicant, Bhubaneswar

Behera, belongs to a household in Bargaon village in
Bolangir District whose land was acquired by the
Government in connection with the setting-up of an
ordnance factory. Under the provisions of a scheme
covered by the Government, one member from the family
of each such person so displaced from his land on
for consideration
account of acquisition was eligible to be appointed to a



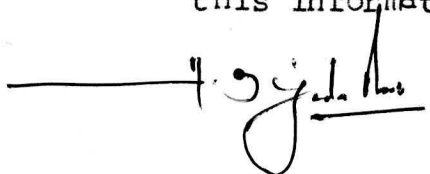
suitable job in the organisation. Bhubaneswar Behera applied and was accordingly called for a selection test in January, 1994, for the post of labourer. He was duly selected and appointed as such on 4.10.1994. The offer of appointment contained, among others, the following clause :

- i) Since this offer of appointment is made pending receipt of your P.V.R., your services are liable to be terminated at any time in case of adverse P.V.R.

On 1.3.1995, the Additional District Magistrate, Bolangir, intimated Respondent 2 that local enquiries had revealed the applicant to be a receiver of stolen properties. The attestation-form on which the District Magistrate's observations were communicated contain the following remark :

Verified the police-station record and found nothing adverse. But on local verification regarding the character and antecedents of applicant, it is ascertained that he is a receiver of stolen goods, particularly property of ordnance factory in Badnal area. But (rest is illegible)

These remarks were recorded by the Officer-In-Charge, Saintala Police Station. On receipt of this information the services of the applicant



were terminated with effect from 9.3.1995.

2. Aggrieved by this action of the Respondents the applicant has prayed in this application for setting aside of the impugned order of termination on the ground that (a) he has neither been served with a copy of the adverse police-report, (b) nor has he been afforded an opportunity to explain his position. According to him, there has never been any report to the police against him, nor was he ever charged with an offence and any legal proceedings initiated much less convicted.

3. The respondents confirm the basic facts and the broad sequence of events.

4. The action of the respondents in this instance cannot be faulted inasmuch as the local authorities did not certify the blemishlessness of character of the applicant. To that extent there is no reasonable justification to quash the order. At the same time, it has also to be noted that the applicant has had nothing against him in the police-records in the past. The charge of receiving stolen goods appears to have been based on hear say and certainly without any valid or adequate evidence. The remarks of the Officer-in-Charge of the Police Station are vague, unsubstantiated and unsupported by precise proof. These do not even show a ver
5. If the local police had a reasonable or irrefutable proof of the applicant's criminal complicity in the theft of government property, the proper course would have been for them to pursue investigations,

— 1. 3. 1995

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gather proof of the culpability of the suspect and to start appropriate action against him. In the absence of any such action, the bland remarks of the Officer-in-Charge of Saintala Police Station remain mere suspicions and unsupported allegations and cannot, therefore, be accepted as final, valid or just. The respondents, on their part, should have asked for a review or reexamination of the adverse remarks in the P.V.R., if, in the meanwhile, they had been satisfied with the work and the integrity of the applicant. If this was not considered feasible, they should, at the least, have apprised the applicant of the precise adverse nature of the report and heard him in the matter. Either of these actions would surely have reflected a concern for one of their own employees who had, by all accounts, not given them any cause for complaint as regards his work in the organisation. However, none of this was done. Instead, a decision was taken to terminate his services in a precipitate manner. Such action, violating as it does the basic tenets of natural justice, cannot be upheld in its present form.

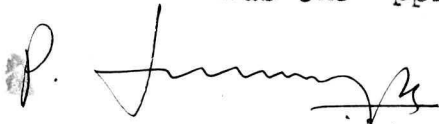
6. The respondents shall, therefore, now have the matter to get re-enquired by the concerned authorities. The remarks of the Officer-In-Charge, Sanitala police station either need reconfirmation after proper enquiries and with proper proof, or are required to be appropriately altered or cancelled if no such proof can be found.


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This process may be got completed within Sixty days from the date of receipt of these orders by Respondent 2, and suitable further follow-up action be taken based on the outcome of the reexamination of the case.

7. The applicant claims that he has not been relieved of his duties and that he is still performing normal duties with the respondents. The latter state that the applicant was in fact relieved much prior to the receipt of the stay orders passed on 6.4.1995. We do not at present propose to go into this question. If the second report of the police is favourable to the applicant he should be taken to duty without avoidable delay.

Thus the application is disposed of. No costs.


(P. SURYA PRAKASHAM)
MEMBER (JUDICIAL)


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

B.K.Sahoo//

Pronounced in open Court to-day, 8th Nov. 1995.

Harasimhasahni
8/11/95
Member (Admin)
on tour at Cuttack.