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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.350 OF 1995
Cuttack, this the 12th day of November, 1997

Dharanidhar Pradhan

Applicant.

Vrs.

Union of India and 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*.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
12/11/97

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CUTTACK BENCH, CUTTACK.

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CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN

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Dharanidhar Pradhan,
s/o Krushna Chandra Pradhan,
Village-Kamarpada,
P.O-JaSAPADA,
PS-Kisannagar,
Dist. Cuttack

Applicant.

Vrs.

1. Union of India,
represented through its Secretary,
Department of Telecommunication,
New Delhi-110 001.
2. Chief General Manager, Telecom,
At/PO-Bhubaneswar,
District-Khurda.
3. Divisional Manager,
Telecommunication (Rourkela Division),
At/PO-Rourkela,
Dist. Sundargarh.
4. District Engineer,
Telecommunication Department,
At/PO-Rourkela.
5. Junior Engineer,
Telecommunication,
Rajagangpur,
At/PO/PS-Rajgangpur,
Dist. Sundargarh

Respondents.

Advocates for applicant - M/s J.M.Mohanty &
D.Sasmal.

Advocate for respondents - Mr.U.B.Mohapatra.

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O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this petition, the applicant has prayed for
quashing the order at Annexure-2 and for a declaration that the

applicant is deemed to be in service under the respondents. This matter was fixed to 9.7.1997 and 21.7.1997 for hearing, but the applicant's counsel was absent. Thereafter the matter was fixed to 6.8.1997 for peremptory hearing. On that day also the learned lawyer for the petitioner was absent. In view of that, the learned Additional Standing Counsel, Shri U.B.Mohapatra was heard on 6.8.1997 and the hearing was concluded with a direction to the learned lawyer for the petitioner to make written submissions, if any, within a period of seven days. On 3.9.1997 the learned lawyer for the petitioner appeared and wanted two weeks time for making written submissions. Written submissions were filed on 12.9.1997 by the learned lawyer for the petitioner. I have gone through the written submissions very carefully.

*Sameem Jam
12.11.97*

2. Facts of this case, according to the applicant, are that he was working as daily rated mazdoor under respondent no.3 from 5.2.1986 to 30.4.1987. In the impugned order at Annexure-2 he was removed from enrolment of Muster Roll with effect from 30.6.1986. It has been mentioned in this impugned order that this may be treated as one month's notice. At Annexure-3 is another notice to the applicant requiring him to attend the office of S.D.O., Telegraphs, to receive some arrears of payment. The applicant's case is that he is a workman and his services have been terminated without following

(11)

the statutory provisions of Industrial Disputes Act, 1947, more particularly Sections 25-F and 25-G thereof. Without going into the matter further, it only need to be stated that this Tribunal is not authorised to adjudicate on non-compliance of the provisions of the Industrial Disputes Act, 1947. There are different forums for that purpose. It has also been laid down by the HOn'ble Supreme Court that industrial disputes cannot be adjudicated before this Tribunal. For that purpose, the concerned workman should approach the Courts which have been established for administering Industrial Disputes Act, 1947. In view of this, I find that the petition is not maintainable before this Tribunal.

*Sumathi Jm
12.11.97*

3. The second aspect of the matter is that it has been mentioned in the written submissions that earlier the applicant had approached this Tribunal in O.A.No.435 of 1993 and an order in his favour was passed. I have looked into the records of O.A.No.435 of 1993. It appears that in that application, the prayer was for a direction to Chief General Manager, Telecom, Orissa, to absorb the applicant in service. This O.A.No.435 of 1993 was disposed of by the Division Bench in order dated 4.5.1994 with the following order:

".....Be that as it may, we would be very happy if some work is given to the petitioner whenever occasion arises in future. Thus the application is accordingly disposed of. No costs."

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From the above, it is clear that the applicant's prayer for regular absorption was not acceded to in O.A.No.435 of 1993 and it is not possible for the applicant to raise the same matter again in the present O.A. The respondents at page 2 of the counter have submitted that the above observations of the Tribunal in O.A.No.435 of 1993 have been kept in view and orders have been issued to District Engineer, Telecommunication Department, Rourkela, on 14.10.1994 to ensure casual engagement of the applicant, if occasion arises in future. From the above, it appears that the orders of the Tribunal in O.A.No.435 of 1993 have been complied with. So far as the present petition is concerned, I have held that it is not maintainable before this Tribunal. The applicant, if he is so advised, may pursue the matter before the appropriate forum set up under the Industrial Disputes Act, 1947. In view of the above, it is ordered that the O.A. along with its enclosures be returned to the applicant, keeping xerox copy of the petition and its enclosures in the record.

4. In the result, therefore, the application is disposed of in terms of the observations and direction contained in paragraphs 2 and 3 of this order. No costs.

Somnath Som
(SOMNATH SOM)
12.11.94
VICE-CHAIRMAN