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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No. 750 of 1995

Cuttack this the day of 20th December, 1995

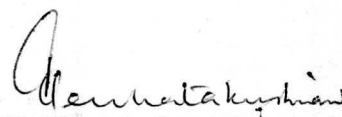
J.C. Nayak & Others ... Applicant (s)

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 Tribunal or not? No

  
(P.V. VENKATAKRISHNAN)  
MEMBER (ADMINISTRATIVE)

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9

CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No.750 of 1995

&

Misc. Application No.890 of 1995

C O R A M:

THE HONOURABLE MR. P.V. VENKATAKRISHNAN, MEMBER (ADMIN)

...

1. Shri Jogesh Chandra Nayak, aged 35 years, Son of Late Budhiram Nayak, resident of Village Mobarakpur, P.S. Soro, Dist: Balasore, at present working as General Manager, Departmental Canteen, Office of Accountant General, Orissa, Bhubaneswar-1, District: Khurda and the Secretary General of Federation of Central Government, Canteen Employees' Workers' Association, Headquarters, Bhubaneswar, Dist: Khurda
2. Shri Baidhar Nayak, aged 42 years, Son of Indramani Nayak, resident of Village Bhairipur, P.O. Rajasa, P.S. Balipatna, District: Khurda, at present working as Store Keeper, Departmental Canteen, Office of Accountant General, Orissa, Bhubaneswar-1, Dist: Khurda
3. Shri Uttam Kumar Sarkar, aged 39 years, Son of Late Prativanath Sarkar, Resident of Rovers Street, Cuttack, Dist: Cuttack, at present working as Manager-cum-Salesman, Departmental Canteen, Doordarshan Kendra, Bhubaneswar-5, Dist: Khurda
4. Shri Ranjan Kumar Roul, aged 27 years, S/o. Late Kalicharan Roul, resident of Villate Bahadulpur, PO: Nadabani, P.S. Singla, Dist: Balasore, at present working as Coupon Clerk in the Departmental Canteen, Office of Deputy Commissioner of Income-Tax, Income-Tax Office, Arunodaya Market, Cuttack, District: Cuttack

...

Applicant

By the Advocate: M/s.K.C.Kanungo  
S.S.Mohapatra  
P.K.Pattnaik  
B.Rout

Versus

1. Union of India, represented by  
Ministry of Personnel Public Grievances  
and Pension, North Block, Room No.102  
Central Secretariate, New Delhi-1
2. Director of Canteen, Department of  
Personnel & Training, 3rd Floor,  
Lokanayak Bhawan, New Delhi

... Respondents

By the Advocate: Mr.Akhaya Mishra,  
Addl.Standing Counsel (Central)

...

ORDER

MR.P.V.VENKATAKRISHNAN, MEMBER (ADMN): Heard Shri K.C.Kanungo,

learned counsel for the applicant and Shri Akhaya Mishra,  
learned Additional Standing Counsel for the Central  
Government.

2. Misc.Application 890/95 for joint permission  
to prosecute the petition allowed.

3. The applicants herein are aggrieved that while  
their representation/memorandum(Annexure-3) regarding  
classifications of posts is pending consideration by  
the 5th Pay Commission, without waiting for the  
decision of the Pay Commission, the Government has  
circulated a Model Recruitment Rules Annexure-1. The  
prayer is to quash Annexure-1. Learned counsel for  
applicants Shri K.C.Kanungo represents that representation/  
~~(not annexed to the Original Application)~~ addressed to  
the Director of Canteens(Respondent No.2) has not been  
disposed of. He also apprehends that the Pay Commission

may be <sup>be</sup> prompted from considering their case fairly, and without <sup>be</sup> bias because of the Model Recruitment Rules issued by the Government.

4. Annexure-1 which is sought to be quashed is only a Model Recruitment Rule and the letter dated 1.3.1995 states that all Ministries/Departments are requested to adopt these rules with suitable modification, if any, depending on their peculiar requirements. In cases of deviation of these model rules, the approval of the Department of Personnel & Training may be obtained.

It is not clear whether the Departments in which the applicants are working have adopted these model rules with or without modification. As long as <sup>the</sup> ~~their~~ model rules are not statutory, it will not be possible for the Tribunal to quash the model rules. The prayer, as it stands in the Original Application therefore, cannot be accepted. However, the case of the applicants cannot be allowed to go by default. Accordingly without admitting the Original Application, I direct the 2nd Respondent, viz. Director of Canteens, Department of Personnel & Training, to examine the representation already sent to him and pass appropriate orders within three months. In case the first respondent has to concur with the 2nd respondent in passing appropriate orders, the 1st respondent shall also consider the matter and pass appropriate orders. For

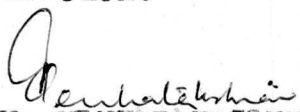
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this purpose, applicants will sent a copy of the representation dated 29.10.1995 to the 1st respondent within 15 days from to-day. The 1st respondent shall consider it and give appropriate instructions to the 2nd respondent within two months from the date of receipt of the representation. Naturally I expect the 1st and 2nd respondents to consider the points raised by the applicants in the Original Application while considering the representation dated 29.10.1995.

With these observations and directions the Original Application is disposed of at the admission stage itself. No costs.

Hand over copies of the order to the counsel for both sides forthwith and ~~also~~ <sup>1</sup> copies of the orders be sent to the respondents along with the copies of the Original Application.

  
(P.V. VENKATAKRISHNAN)  
MEMBER (ADMINISTRATIVE)

B.K.Sahoo//