

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : CUTTACK BENCH :
C U T T A C K.

ORIGINAL APPLICATION NO.817 of 1996.

Cuttack this the 12th day of May, 1997.

Bhubaneswar Behera. Applicant.

-Versus-

Union of India and another. Respondents.

(FOR INSTRUCTIONS)

1. Whether it be referred to the Reporters or not ? Yes
2. Whether it be referred to all the Benches of the Central Administrative Tribunal or not ?

(SMT. LAKSHMI SWAMINATHAN)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM) 2-5-97
VICE- CHAIRMAN.

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CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH : CUTTACK.

ORIGINAL APPLICATION NO. 817 OF 1996.

Cuttack this the 12th day of May, 1997.

CORAM :

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN.

THE HONOURABLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J).

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Bhubaneswar Behera aged about 30 years,
Son of Ranjit Behera, resident of Bargaon,
P.O. Bhadra, District- Bolangir.

... Applicant.

By the Advocate : M/s. K.B.Panda and S.K.Jethy.

Versus.

1. Union of India, represented by the
Secretary in the Ministry of Defence,
New Delhi.

2. General Manager,
Ordnance Factory,
Bolangir (P),
At/P.O.Badmal,
District- Bolangir-767 770.

.... Respondents.

By the Advocate : Mr. S. C. Samantaray, Addl. Standing Counsel.

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O R D E R.

SOMNATH SOM, VICE-CHAIRMAN : This is a petition under Section 19 of the
Administrative Tribunals Act, 1985 filed by Bhubaneswar Behera
praying for a direction to the respondents 1 and 2 to regularise
his services from 10.3.1995 to 16.2.1996 and to pay him the
salary for the above period. The facts of the case fall within
a small compass can be briefly stated.

1. Jom : 12.5.97.

2. Petitioner was appointed as a labourer in the office

of the General Manager, Ordnance Factory, Bolangir, vide appointment order dated 4.10.1994. His services were terminated vide order dated 9.3.1995. Such termination order was challenged before the Tribunal in O.A.No.195/95 and on the basis of the judgment of the Tribunal in the above O.A., the applicant was reinstated in service in order dated 16.2.1996 by the respondent No.2 but for the intervening period from 10.3.1995 to 16.2.1996 his services have not been regularised and he has not been paid his salary.

3. The respondents have filed the counter and contested the claim. It appears from the order dated 8th November, 1995 in O.A.No.195/95 that the petitioner was selected for the post of Labourer (unskilled) on 4.10.1994 and in the offer of appointment, it was specifically mentioned that the appointment is subject to receipt of police verification report and the services are liable to be terminated at any time in case of adverse police verification report. The police verification report mentioned that though there is nothing against the petitioner in the police station record but on local verification regarding the character and antecedents of the petitioner, it has been ascertained that he is a receiver of stolen goods, particularly, the property of Ordnance factory in Badmal area. On receipt of this police verification report, the services of the petitioner were terminated with effect from 9.3.1995 in terms of the offer of appointment given to him. In order dated 8.11.1995

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in O.A. No.195/95 the Tribunal held that the action of the respondents in the O.A. terminating the services of the petitioner cannot be faulted inasmuch as the local authorities did not certify the blemishlessness of character of the applicant and there was no reasonable justification to quash the order. At the same time, the Tribunal observed that the petitioner has not been given a chance to show cause against the bland statement against the petitioner and in consideration of that, a direction was issued to the respondents in the O.A. to get the matter re-enquired by the concerned authorities. It was further noted in the order of the Tribunal that the remarks of the Officer-in-charge, Sainitala Police Station either need re-confirmation after proper enquiry and with proper proof or are required to be appropriately altered or cancelled if no such proof can be found. Ultimately it was ordered that if the second report of the police is favourable to the applicant, he should be taken to duty without avoidable delay. The matter was accordingly once again enquired into by the Civil authorities and the Additional District Magistrate, Bolangir in his letter dated 7.2.1996 vide Annexure-R/3 reported that after due re-verification from the police record it was seen that there was nothing adverse against Sri Bhubaneswar Behera, Ex-Labourer (Unskilled), Ordnance factory, Balangir. On receipt of this report, the petitioner was taken back in service with effect from 17.2.1996. Thereafter the petitioner was issued with a notice to apply for regularisation of the period of absence either by sanction of leave of any kind

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due or admissible failing which the period shall be treated as dies non.

4. From the above facts, it is clear that the petitioner's original appointment was subject to receipt of police verification report and it was clearly mentioned in the offer of appointment that in the event of adverse police verification report his services will be terminated. As an adverse report was received initially from the district authorities, his services were terminated in accordance with the terms of appointment. The Tribunal in O.A.No.195/95 has upheld the order of termination and the matter cannot be reopened. Subsequently in compliance with the order of the Tribunal in O.A.No.195/95 a re-verification has been done and the petitioner has been given a clean report. The Ordnance factory could have given him a fresh appointment after receipt of the second police verification report, but they have merely reinstated him in service. But this will not give rise to a claim for salaries for the intervening period when he did not work and when his original order of termination has been upheld by the Tribunal. It is, therefore, held that the petitioner has no claim for salary for the intervening period. The O.A. therefore fails and is dismissed. There shall, however, be no order as to costs.

Lakshmi

(SMT. LAKSHMI SWAMINATHAN)
MEMBER (JUDICIAL).

Somnath Som
(SOMNATH SOM)
VICE- CHAIRMAN
12.5.97

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