

(A)
FORM NO.4

(See Rule 12)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

ORDER SHEET

Application No. OA 23 of 1999

Applicant (s) Laxman Nayak Respondent (s) U.O.I. & Ors

Advocate for Applicant (s) M/s. S.K. Mohanty Advocate for Respondent (s) S.P. Mohanty, P.K. Lenka, S.K. Das

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

20 for Rs 50/- paid.

For Regn pl.

27.1.99

27.01.99

Dy. Registrar 27/1

For Admn pl.

27/1/99

Bina

S. Som

REGISTER

By Registrar

29/1/99

Seen the petition. Heard the learned counsel for the petitioner Shri S.P. Mohanty and Shri A.K. Boge, learned Senior Standing Counsel appearing for the respondents, on whom a copy of the petition has been served. After hearing learned counsels for both sides we feel that this Original Application can be disposed of at the admission stage by issuing appropriate directions to the departmental authorities.

The short facts of this case, according to petitioner are that for the post of E.D.D.A. Gr.I, Gopalpur S.O. there was a process of selection in which he applied and was found most suitable. He was given the appointment and he joined the post on 2.3.1998. It is submitted by the learned counsel for the petitioner that even though he was selected through a regular process of selection his appointment was provisional from 1.3.1998 to till regular appointment is made or decision of the C.A.T. Case filed by Shri J. Umapathi Reddy and K.C. Nayak in O.A.No.s.353/97 and 225/97 respectively. While the matter stood as such the applicant was issued with notice dated 6.1.1999 at Annexure-5 in which

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NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Free copy
of the order
dt. 29.1.99 may
be given to
the applicant's
counsel.

Fab
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Page 1
2/11/11
S.O.

Free copy of
the order dt. 29.1.99
with copy of
the original
application may
be sent to all
resps. by rep.
Post

Fab
11/2

Page 1
11/2/11
S.O.

A copy of
the order
dt. 29.1.99 may
be given to
Mr. A. K. Bose, Secy.

Fab
18/2

Received copy
for Mr. A. K. Bose.
Secy. C. Secy.
Small Adv.

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S.O.

he ~~was~~ was informed that his appointment has been found to have been made in contravention of administrative/executive instructions of the department and therefore, it is proposed to terminate his service. In this notice the applicant was directed to file representations show cause, if any, against the above proposal within a period of one month from the date of receipt of memorandum and also to indicate if he wants to be heard in person. In response to this the applicant filed a representation dated 6.1.1999 at Annexure-6 in which he pointed out that the exact nature of violation of administrative/executive instruction in the matter of his appointment has not been communicated to him in the show cause notice at Annexure-5 and therefore, he is not in a position to make adequate representation. He, therefore, prayed that the proposed action should be dropped and he should be allowed to continue in service.

We have heard learned counsels for both sides. There are a large number of decisions of the Apex Court that before taking any executive/administrative action which has ^{civil} ~~suffered~~ ^{a J. from} consequence for an employee show cause notice is to be given, but for making it possible for the concerned employee to make a meaningful representation it is necessary that nature ~~of~~ circumstances because of which action is proposed to be taken against him should be communicated to him. This has not been done in the present case. In view of this we dispose of this Original Application by issuing directions to Res. 2 and 3 to indicate ^{to} ~~the~~ ^{a J. from} the applicant the very nature of violation of administrative /executive instruction within a period of 15 days from the date of receipt of copies of this order giving opportunity to the applicant of another 15 days time for making his representation thereon. Action, if any, against the applicant should be taken only after his representation ~~is~~ filed in accordance with the direction given above *is disposed of J. from.*

VICE-CHAIRMAN

MEMBER (JUDICIAL)