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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 255 of 2003
Cuttack, this the 11th day of July, 2008

Bhagirathi Nayak ... Applicants
Versus
Union of India & Others ... Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not?
2. Whether it be circulated to all the Benches of the CAT or not?

(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)


(C.R. MOHAPATRA)
MEMBER (ADMN.)

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CENTRAL ADMINISTRATIVE TRIBUNAL
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C O R A M:

THE HON'BLE MR.JUSTICE K.THANKAPPAN, MEMBER(J)
A N D
THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (A)

BHAGIRATHI NAYAK, aged about 46 years, S/o.Umakanta Nayak, resident of Digidia, Po. Digidia, Dist. Balasore, at present residing at Plot No. 187, Saheed Nagar, Bhubaneswar, Dist. Khurda.

..... Applicant

By legal practitioner: M/s. S.D.Das, B.N.Udgata, D.R.Behera,
D.R.Bhokta, H.S.Satapathy,
A.N.Sahoo, D.R.Sunder Ray, Y.
Barik, Counsel.

-Versus-

1. Union of India represented through the Secretary, Ministry of Human Resources Development, Government of India, New Delhi.
2. National Council of Education Research and Training, represented through its Secretary, Shri Aurobinda Narga, New Delhi-110016.
3. Regional College of Education, represented through its Principal, Bhubaneswar, Dist. Khurda.
4. Administrative Officer, Regional College of Education, Bhubaneswar, Dist. Khurda.

...Respondents.

By legal practitioner: Mr.S.Barik, ASC

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ORDER

MR. C.R. MOHAPATRA, MEMBER (ADMN.):

Undisputedly, the fact of the matter is that the Applicant was initially appointed as PGT (Music) in D.M. School of RIE, Bhubaneswar, on ad-hoc basis with effect from forenoon of 24th October, 1990 vide order dated 13th November, 1990 (Annexure-I). His engagement on Ad-hoc basis was extended from time to time with intermittent breaks. As the ad-hoc appointment of applicant was not extended after May, 1994, he approached the Hon'ble High Court of Orissa in OJC NO. 3554 of 1994 seeking regularization of his service. As per interim orders of the Hon'ble High Court, the Applicant was allowed to continue on such ad-hoc basis. However, the Writ Petition filed by Applicant was dismissed by the Hon'ble High Court holding as not maintainable. Thereafter, he approached the Civil Judge (Junior Division), Bhubaneswar in T.S.No. 211 of 1994. On the basis of the interim orders passed in TS No. 211/1994, the Applicant was allowed to continue on Ad-hoc basis as before. However, the said suit was also dismissed on 08.08.2000. Thereafter, he challenged the said order of dismissal before the Learned District Judge, Khurda in I.A.No. 16 of 2000. While the matter was pending before the Learned District Judge, Khurda, the ad-hoc appointment/engagement of Applicant came to

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an end vide order under Annexure-7 dated 10th August, 2000. However, I.A No. 16 of 2000 was dismissed on 06.01.2001. Being aggrieved by the said order of the Learned District Judge, Khurda, the Applicant carried the matter to Hon'ble High Court in second Appeal No. 103/2001 which is still pending for consideration.

2. However, in the meantime, vide gazette notificatoni dated 04.01.2002, jurisdiction to hear and decide the service grievance of employees of the Respondents having been conferred upon this Tribunal, the Applicant filed the present Original Application U/s.19 of the A.T.Act, 1985 seeking the following relief(s):-

"The applicant therefore prays that this Hon'ble Tribunal be graciously pleased to direct the respondents to reinstate the applicant in the post of which he was holding with all his service benefits and quash the Annexure-5 (sic) in the best interest of justice;

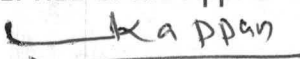
And for this act of kindness, the applicant shall as in duty bound ever pray."


3. It is the stand of the Respondents that after dismissal of the prayer for regularization of the service of the Applicant by the Learned Civil Judge and Learned District Judge, the matter is subjudice before the Hon'ble High Court in second appeal No. 103 of 2001 and hence this Tribunal has no jurisdiction to reopen or rehear the matter.



4. Heard Learned Counsel for the respective parties and perused the materials placed on record. By reiterating the grounds taken in the pleadings, Learned Counsel for the Applicant has tried to impress upon in support of his contention of illegality in the impugned order of termination which was vehemently opposed by the Learned Counsel appearing for the Respondents on the ground that expressing any opinion on the merit of the matter would tantamount to reopening/rehearing the matter which after adjudication is subjudice before the Hon'ble High Court.

5. On scrutiny of the records vis-à-vis the contentions advanced by respective parties, we find substantial force in the submission of the Learned Counsel for the Respondents that when the prayer for regularization is pending before the Hon'ble High Court of Orissa in 2nd Appeal No. 103 of 2001 expression of any opinion on the merits of the matter would amount to prejudging the matter. Hence, this Original Application is disposed of with the observation that the decision of the Hon'ble High Court in 2nd Appeal No. 103 of 2001 shall govern the future service of the Applicant. There shall be no order as to costs.


(JUSTICE K.THANKAPPAN)
MEMBER (JUDICIAL)


(C.R.MOHAPATRA)
MEMBER (ADMN.)