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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.**

**O.A. NO. 1253 OF 2003
Cuttack, this the 16TH day of November, 2005.**

DR.PRASANTA KUMAR PANIGRAHY. APPLICANT

VERSUS

UNION OF INDIA & ORS. RESPONDENTS.

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not? *Yes.*

2. Whether it be circulated to all the Benches of CAT? *Yes.*

B.N.SOM
VICE-CHAIRMAN

*Subjet
16/11/2005*
(M.R.MOHANTY)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 1253 OF 2003

Cuttack, this the 16th day of November, 2005
C O R A M:-

**THE HON'BLE MR. B.N.SOM, VICE-CHAIRMAN
AND
THE HON'BLE MR.M.R.MOHANTY, MEMBER(JUDICIAL)**

Dr. Prasanta Kumar Panigrahy, aged about 42 years,
C/o. Late Ananta Ram Panigrahy, resident At-
Ramnagar, Po- Lanjipolli, Berhampur,
Dist. Ganjam, at present working as Project
Associate, COMAPS Project, Mineralogy
& Metalography Deptt. Regional Research Laboratory,
Bhubaneswar-13, Dist. Khurda. **APPLICANT.**

By legal practitioner: M/s. K.C. Kanungo, Ms. C. Padhi,
B. Nanda, S. Behera, P.K. Patnaik,
Advocates.

VERSUS

1. Secretary to Govt. of India, Ministry of Science & Technology, Central Secretariat, New Delhi-1.
2. Secretary to Govt. of India, Department of Ocean Development, Block No. 12, CGO Complex, Lodhi Road, New Delhi-3.
3. Director General, Council of Scientific & Industrial Research, Rafi Marg, New Delhi.
4. Director, Regional Research Laboratory, Bhubaneswar-13, Dist. Khurda, Orissa. **RESPONDENTS.**

By Legal practitioner: Mr. U.B. Mohapatra, SSC
&
Mr. A.K. Bose, Adv. (For Res. Nos. 3 & 4)



ORDER

MR. M.R.MOHANTY, MEMBER(JUDICIAL):-

Short facts of the case are that the Applicant Dr. P.K.Panigrahi, (by an order under Annexure-1 dated 25-29-1991 of the Regional Research Laboratory at Bhubaneswar) was selected to work as Project Fellow (in a sponsored project known as COSTAL OCEAN MONITORING & PREDICTION SYSTEM) and appointed as such on a consolidated stipend of Rs. 2200 + 220 as HRA. Pursuant to the said order of appointment, the Applicant joined his duty on 05.04.1991. Applicant was allowed to continue as such even with enhanced consolidated pay till 31.3.1999. While continuing as Project Associate w.e.f. 1.4.1998 till 31.3.1999, he was selected and appointed as a Fellow (Scientist) in the said RRL/BBSR on 15.04.1998 for a period of three years; which term expired on 07.05.2001. Thereafter, the Applicant was again selected and appointed as Project Associate (by letter dated 21.08.2001 issued under Annexure-8) in the same COMAPS Project in RRL/BBSR w.e.f. 29.8.2001 for a period of eight months, however, with a condition that the term of engagement may be extended or curtailed depending upon the status of the sponsored project. However, although approval has been made to continue the said COMAPS project till 31.3.2007, one month notice was issued to the Applicant (under Annexure-13 dated 18.9.2003) stating therein that the tenure of the

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✓ Applicant will cease w.e.f. 16.10.2003 AN. Again, under Annexure-14 dated 10-10-2003, the tenure of the Applicant, as a special case, was extended w.e.f. 16.10.2003 to 31.12.2003 and, apprehending his non continuance, the Applicant made a representation to the Authorities of RRL/BBSR, on 24.10.2003, and no order having been passed on the said such representation of the Applicant, he has filed this Original Application under section 19 of the Administrative Tribunals Act, 1985 with the following prayers:-

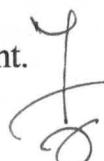
“to hold that the engagement of the Applicant as Project Associate is valid till 31.3.2007 or till the completion of the “Coastal Ocean Monitoring And Prediction System” (COMAPS) whichever is later.

To hold that issuance Annexure- 13 & 14 as violative of the proclaimed conditions laid down in Annexure-8,10 & 11.

To hold that Annexure-16 is not applicable to the Applicant.

To direct the Respondents to pay the differential amount consequent upon the revision of emoluments of Research Associates w.e.f. 01-04-2002”.

2. Factual aspects of the matter are not in dispute. However, the Respondents have stated, in their counter, that as per the policy of the CSIR restricting the engagement of an employee in a project for a maximum period of five years, it was rightly decided not to extend the engagement of the Applicant and, therefore, no fault can be found out on the disengagement of the Applicant.



3. We have heard Mr. K.C.Kanungo, Learned counsel appearing for the Applicant, Mr. U.B.Mohapatra, Learned Senior Standing Counsel appearing for the Union of India and Mr. A.K.Bose, learned counsel appearing for the Respondents 3 and 4 and perused the materials placed on record..

4. Mr. Kanungo, learned counsel appearing for the Applicant by placing into service the decision of the Lucknow Bench of this Tribunal that was rendered in the case of Dr. Prathibha Mishra vrs. Union of India and others (O.A.No. 83/1996 disposed of on 25th September, 1996) and the orders passed by the Hon'ble Apex Court of India in Special Leave to Appeal No.1680 of 1997, submitted that the Applicant has a right not only to continue in the project till the COMAPS Project work is over i.e. till 31-03-2007 but to be regularized in service. On the other hand it was submitted by the learned counsel appearing for the Respondents that if this prayer is allowed, then, virtually it would amount to interfering with the policy decisions; which is beyond the scope and ambit of this Tribunal.

5. We have perused the decision that was rendered by the Lucknow Bench of this Tribunal allowing the continuance of the applicant of that case till regularization of his service which was also confirmed by the Hon'ble Apex Court in appeal . The Hon'ble Apex



Court of India , while disposing of the SLP No. 1680/97 (supra) held as follows:-

“We feel that having regard to the facts and circumstances of this case the direction of the Tribunal in respect of the respondent – Dr. Pratibha Mishra should not be disturbed. However, so far as the formulation of scheme is concerned, we direct the petitioners to consider the question of formulating a scheme for people who are working on contract basis. The Special Leave Petition is disposed of.”

We find that the issues involved in this case were also the subject matter before the Lucknow Bench, which was confirmed by the Hon'ble Apex Court of India.

In a similar matter (in O.A. No. 952/2004 of Kabi Surya Jena vrs. Union of India) of RRL/BBSR, this Bench of the Tribunal, after taking note of various judge made laws, have held that the engagement of the Applicant was co-terminus with the Project of RRL/Bhubaneswar and that, the Project in question , is to continue upto end of March, 2007, and, therefore, the Respondents were directed to allow the Applicant of that case to continue in the project (as Sr. Project Assistant) till completion of the project.

6. In this case there is no dispute that the project in question is to continue till 31.3.2007. We also find that the policy of the CSIR; to throw away a Project employee, after his continuance for five years, even if work is there; is opposed to the public policy. Such hiring and

Signature

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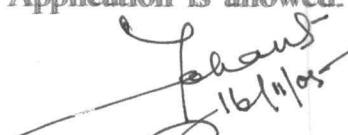
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firing attitude of the employer has been deprecated by the Hon'ble Apex Court of India on several occasions. That apart, despite the general principles of restrictions given out by CSIR, the offer, of engagement (at Annexure-8 dated 21/29.08.2001) has given chance to the Applicant to continue upto end of the Project in which he has been engaged. Law is well settled that a general principle is bound to be superseded by specific principle and, as such the engagement of the Applicant in COMAPS Project is co-terminus with the Project.

7. We also find that the engagement of applicant was also asked to be co terminus with the Project. In this Original Application the prayer of the Applicant is only to allow him to continue till end of the project work /till 31.03.2007. In view of the discussions made above, we find considerable force in the submissions of the Applicant that he has a right to continue till completion of the project COMAPS. The Respondents are hereby directed to allow the Applicant to continue in the COMAPS Project till 31.3.2007/or till the said project work come to an end. With these observations and directions, this Original Application is allowed.

No costs.


(B.N. SOM)
VICE-CHAIRMAN


16/1/05
(M.R. MOHANTY)
MEMBER(JUDICIAL)