

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

ORIGINAL APPLICATION NO. 1309 OF 2003
Cuttack this the 21st day of February/05

P.K.Bastia ... Applicant(s)

- VERSUS -

Union of India & Ors. 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*

M.R. Mohanty
(M.R. MOHANTY)
MEMBER (JUDICIAL)

B.N. Som
(B.N. SOM)
VICE-CHAIRMAN

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ORIGINAL APPLICATION NO. 1309 OF 2003
Cuttack this the 21st day of February/05

CORAM:

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

...

Sri Pramod Kumar Bastia, aged 33 yrs.,
S/o. Sri Gauranga Charan Bastia,
Vill : Rahamba, Post : Postal, Via :
Brahmana Sailo, Dist.Cuttack

...

Applicant

By the Advocates

Mr.P.K.Padhi

- VERSUS -

1. Union of India represented by its Director General (ESIC) Employees' State Insurance Corporation, Panchdeep Bhawan, Kotla Road, New Delhi
2. Additional Commissioner (P&A) ESIC Employee's State Insurance Corporation, Panchdeep Bhawan, Kotla Road, New Delhi
3. Regional Director, (ESIC) Employee's State Insurance Corporation, Regional Office, Orissa, At/PO-Bhubaneswar-22, Khurda-751022

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Respondents

By the Advocates

M/s.P.P.Ray
D.P.Ray
L.K.Mohanty

O R D E R

MR.B.N.SOM, VICE-CHAIRMAN: Shri Pramod Kumar Bastia has filed this Original Application being aggrieved by the order dated 8.11.2001 (Annexure-13) passed by the Res. No. 3, dismissing him from service and the orders passed by Res.2 and 1 respectively, rejecting his appeal/petition, filed against the said order of dismissal. It is in this background, he has prayed for quashing Annexures-A/13, A/15 and A/17 and to direct the Respondents to reinstate him in service with all consequential

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benefits.

2. We have heard the learned counsel for the parties and perused the materials placed before us.

3. We had, by our order dated 11.1.2005, directed the Respondents to produce the Service Book and Personal File of the applicant to ascertain the status of the applicant in the organisation and for effective adjudication of the matter. Accordingly, on the next date of hearing, i.e., 21.2.2005, the Respondents filed a Memorandum stating therein that the Respondents-Corporation did not maintain any Service Book in respect of the applicant as he was appointed as Peon on ad hoc basis, as a stop gap measure. The personal file of the applicant was, however, produced.

4. We are surprised to find out that the applicant/ was appointed purely on temporary/adhoc basis on 28.2.1994 was first placed under suspension in exercise of powers conferred under sub-regulation(i) of Regulation 10 of the Employees' State Insurance Corporation (Staff & Conditions of Service) Regulations, 1959 (in short Regulations, 1959) and thereafter, he was proceeded under Regulation 14 of the said Regulations, 1959, as if he were a regular departmental employee. The disciplinary proceeding which was initiated on 24.6.1998 ended on 24.1.2003, when the reviewing authority passed the order dated 24.1.2003 rejecting the revision petition filed by the applicant. The applicant having been appointed on ad hoc basis was not entitled to any of the service benefits and that is why, as submitted by the Respondents, they had not taken any action to open his Service Book.

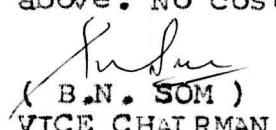
On the other hand, without any application of mind, they had needlessly applied rigours of Regulations, 1959, and in the process, the applicant continued to be with them from 28.2.1994 to 23.1.2003.

5. This is a fit case where Respondent No.1 would be well-advised to find out as to how everybody down the line failed to appreciate the procedures prescribed for determining the service conditions in case ^{the} of an adhoc/ temporary employee. It is also a matter of great concern and we hope that Res. No.1 will take care of the peculiar situation that the Respondents organisation which is entrusted with the most onerous job of implementing the benefits under the Employees State Insurance Scheme framed under the Employees State Insurance Act, the functionaries of that organisation are prone to commit such glaring mistakes as they have done in the instant case. There seems to be serious administrative malfunctioning which needs repair and reform.

6. In view of the above observations, it is not necessary to go into any other aspect of the matter than to say that as the service of the applicant has been terminated and/or he has been dismissed from service after following an elaborate process of inquiry, where he was given ample opportunity to defend his case, we see no reason to interfere in the matter. Accordingly, the O.A. is dismissed with the observation as made above. No costs.

(M.R. MCHANTY)
MEMBER (JUDICIAL)

BJY


(B.N. SOM)
VICE-CHAIRMAN