

## NOTES OF THE REGISTRY

## ORDERS OF THE TRIBUNAL

free copy  
of the order  
given dt. 24.5.2002  
given to the  
both counsel.

*S. P. D.*  
26/1

R  
25/1  
S. O

Counter not  
filled  
R. D. B.  
15/2  
Registration

18-2-2002  
Sh. S. B. Jena, Ld ASI filed one M.A.  
2 Paras for 4 weeks time to file  
Court on the ground stated them.  
Head. Time granted till 13.3.2002  
for Counter. Await return of A.D  
for R. S. till then.

*S. P. D.*  
15/2/2002

REGISTRAR

A. D. from R-5  
returned.

App. memo by  
R-5 not filed

Counter by  
R-1 to R-4 not  
filled

*R. D. B.*  
15/3

and has not handed over the charge. In this view of the matter, I do not see any reason to allow further continuance of ad interim order. It is made clear that if the applicant succeeds in the O.A. he will be entitled to all his salary and other service benefits from the date of termination till the date of reinstatement to the post, if any.

Hand over copies of order to both sides.

*S. P. D.*  
VICE-CHAIRMAN  
24/1/2002

Date : 15.5.2002

The Applicant is absent on call. No steps taken by him to file Rejoinder and, therefore, pleadings are deemed completed. List this case for final hearing.

*S. P. D.*  
REGISTRAR 15/5/2002

Order dated 23.5.2002

Heard Shri Bijaya Kumar Nayak-3, Advocate for the Applicant and Shri S.B.Jena, A.S.C. for the Respondents and perused the records.

The Applicant was engaged as Part-time Attendant at N-25 Rest House at Puri, w.e.f. 1.9.2000 to work for five hours per day and the said employment was conditioned "liable to be terminated by notifying the order in writing" that his employment and was governed by the PT (Rest House Attendants) Rules. The Applicant having faced a termination from service under Annexure-2 has approached this Tribunal for redressal of his grievances. It is the case of the applicant that by <sup>a</sup> transferring temporary hand (like him) from

*S. P. D.*

*J. S.*

5  
04.03/2002

## NOTES OF THE REGISTRY

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Dt. 13.3.2002

~~Case No. 513/2002~~ The applicant is absent. A.D returned after service from R.S. He is absent on call. No steps taken by him to file counter. Ld.A.S.C for R-1 to R-4 files one M.A praying for four weeks time to move to file counter.

Heard. Time granted till 5.4.2002 to file counter.

REGISTRAR

Counter filed.  
Copy of counter  
not ~~served~~ served

Rajendra  
11/4

R. Regd.

Dt. 12.4.2002

Ld.A.S.C. appearing for R-1 to R-4 have filed counter. He is directed to serve copy of the counter on the applicant by 29.4.2002.

R-5 continues to remain absent.

REGISTRAR

Counter not served

App. Memo  
by R-5 not filed

Rajendra  
25/4 R. Regd.

Talcher to Puri N-25 Rest House, the applicant has been thrown out of employment. It is the case of the Advocate for the Applicant that "one Temporary Hand should not be allowed to replace by another temporary hand."

In the counter it has been explained by the Respondents (as has been pointed out by Shri S.B.Jena, Addl. Standing Counsel) that Respondent No.5 was engaged at Talcher since 4.5.1993. Due to reduction of work, the said Respondent No.5 was found to be a surplus one and, in order to accommodate him, the Applicant, who was junior having been engaged in 1.9.2000, had to ~~face~~ face the retrenchment. By the retrenchment of the Applicant from Puri, and on retrenchment from Puri, Respondent No.5 has been accommodated at Puri. It is the case of the Respondents that Respondent No.5 has joined at Puri on 27.12.2001.

At the time of filing of this case, an interim direction was given, and, after filing of the show cause by the Respondents, the interim direction, protecting the Applicant, was vacated.

In the aforesaid premises, there can be no grievances by the Applicant for his retrenchment/termination under Annexure-2.

At this stage, the Advocate for the Applicant states that the Applicant is a poor chap and in view of his experiences gathered in course of his part-time <sup>service as</sup> Attendant at Puri Rest House, his case should receive sympathetic consideration to give him an alternate job in the Postal Department.

No doubt the applicant was in part-time

AFD

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Dt. 29.4.2002

Ld.ASC submits that as the applicant and the Counsels are absent, he is handicapped to serve a copy of the counter and prays for further time to serve the copy. Heard.

Time granted till 8.5.2002 for service of the copy of the counter. R-5 continues to remain absent.

*REGISTRAR*  
REGISTRAR 29/4/2002

MEMO Regd:  
Service of counters  
copy not filed.

*pete*  
7/5

Regd.

Dt. 8.5.2002

Ld.Counsel for the applicant acknowledges receipt of the copy of the counter and prays for time to file Rejoinder. Heard.

Time granted till 15.5.2002 to file Rejoinder. R-5 continues to remain absent.

*REGISTRAR*  
REGISTRAR 8/5/2002

Rejoinder not filed.

*h  
14/5*

*Registers*

for hearing.

*h  
22/5*

*Bench*

employment in the Postal Organisation, but no terminee was fixed to his employment. That being the position, before disengaging/retrenching/ terminating his services, he should have been put to notice to have his say in the matter. Merely because he was in a part-time hand and that his letter of engagement was conditioned as aforesaid, the Respondents cannot have any excuse for violation of the principles of natural justice. Not able to answer cannot be a answer to the denial of principles of natural justice.

In the said premises, I am inclined to hold that the retrenchment/termination/disengagement of the Applicant from part-time Rest House Attendant at Puri cannot be allowed to stand in the touch stone of judicial scrutiny. If the surplus hand was to be accommodated, it was for the Department to find an alternate job for Respondent No.5 to adjust him; and/or while accommodating Respondent No.5 in place of the Applicant, it was incumbent on the part of the Department to suitably engage the Applicant in some other post in the Department since because he has gathered some experience in the Department.

In the aforesaid peculiar circumstances the Respondents are directed to explore the possibility of providing an alternate employment/engagement for the Applicant; for which the Applicant must now make a representation to the Departmental authorities, within a period of one month from to-day, and the Respondents must identify a suitable employment/engagement for the Applicant within a maximum period of three months

*ASD*

*J*

7

OA. 3/2002

from the date of receipt of such representation from the Applicant.

With the aforesaid observations and direction, this O.A. is allowed, but in the peculiar circumstances of the case, there shall be no order as to costs.

AFR

*J. S. Jaiswal*  
23/05/2002  
MEMBER (JUDICIAL)

Later: Send copies of this order to Respondents at the cost of the Applicant, on whose behalf Shri B.K.Nayak-3 undertakes to file the required postages by 24.5.2002.

Upon furnishing the required postages as directed above, free copies of the order be made available to the counsels of both sides.

*J. S. Jaiswal*  
23/05/2002  
MEMBER (JUDICIAL)

Required postage fixed today (24.5.02)

Copies of order dt. 23/05/02  
Issued to counsel for both sides.

*B. K. Nayak*  
S.O.

*h*  
24/5/02  
Copies of order  
dt. 23.05.02 communicated  
to all respondents.

*Donli*  
26/5/02

*h*  
26/5