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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK


O.A.No. 366 of 2009


Cuttack this the 09<sup>th</sup> day of February, 2011

Karanpal Singh ..... Applicant  
-Versus-  
Union of India & Ors. .... Respondents

FOR INSTRUCTION

1. Whether it be referred to reporters or not?
2. Whether it be circulated to Principal Bench, Central Administrative Tribunal or not?

  
(A.K.PATNAIK)  
Member(Judl)

  
(C. R. MOHAPATRA)  
Member (Admn.)

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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

O.A.No. 366 of 2009

Cuttack this the 09<sup>th</sup> day of February, 2011

CORAM:

THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (A)

A N D

THE HON'BLE MR.A.K.PATNAIK, MEMBER (J)

Kaaranpal Singh, aged about 31 years, son of Hargyan Singh, House No.17.H Bashi Dabari, At-Sitapur, PO. Palam, New Delhi-110 045, preently resides at House No.M/85, At-Kapila Prasad, PO. Bhimatangi, Bhubaneswar, Dist. Khurda.

.....Applicant

Legal Practitioner: M/s.Dhuliram Pattanaik, S.Pattnaik, N.S.Panda,  
N.Biswal, Ms.L.Pattanayak, Counsel.

-Versus-

1. Union of India, represented through its Secretary, Health and Family Welfare Government of India, At-Central Secretariat, New Delhi.
2. Director, Central Council for Research in Ayurveda & Siddha Jawaharlal Nehru Bharatiya Chikisha Ayam Homoeopathy and Anusandhan Bhawan No.61-65, Industrial Area, Opp "D" Block, At-Janakpuri, New Delhi-110 058.
3. Assistant Director, Central Research Institute (Ayurveda) Unit-I, Bhubanswar-751 009, Dist. Khurda.

....Respondents

Legal Practitioner: Mr.S.Barik, ASC.

O R D E R

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

The order of termination under Annexure-A/6 dated 23.11.2006 and the order under Annexure-A/9 dated 4.12.2008 have been challenged by the applicant in this Original

Application filed under section 19 of the A.T.A ct, 1985 with prayer to quash the order under Annexures-A/6 & A/9 and to direct the Respondents to reinstate him with all consequential benefits.

2. Respondents in their counter, out rightly, opposed the contention vis-à-vis the prayer of the applicant made in his Original Application.

3. Through rejoinder, Applicant while reiterating his stand taken in the OA has tried to rebut some of the points raised by the Respondents in their counter.

4. By relying on the averments and materials in support of the pleadings in the OA, Learned Counsel for the Applicant submitted that termination of the services of the Applicant was done due to the reason that before filling up of the post, there was no clearance obtained from the Screening Committee. This action is highly illegal, arbitrary and was without application of mind as the applicant was not responsible for the same. Accordingly, while reiterating his prayer to quash the orders under Annexures-A/6 & A/9 he has prayed to direct the Respondents to reinstate the applicant to service retrospectively with all consequential service and financial benefits.

5. On the other hand Respondents' counsel stoutly opposed the above contention of the Applicant. According to him, the Central Research Institute (Ayurveda), Bhubaneswar was permitted to fill up the post of Hindi Assistant (Translator) during the year 2003. The Director of the Institute sent a requisition to the Local Employment Exchange for recommending suitable candidates for filling up of the post of Hindi Assistant (Translator). The Employment Exchange sponsored/recommended name of thirty candidates for the single post of the Institute. The Director also advertised the said post and in pursuance of the advertisement, 65 applications, including the application of the applicant, were received. Out of the 55 valid applications, 42 candidates participated in the written test as well as interview held on 19-07-2003 and 20.7.2003 respectively. The result of the selection was sent to the competent authority who communicated its approval in letter dated 14.12.2005. Thereafter, pursuant to the offer of appointment dated 20.12.2005 issued by the in charge of the Institute, the applicant joined the post on 28.12.2005. However, vide letter dated 23.11.2006, the Department of AYUSH conveyed the approval of the Minister of Health & FW as the

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President of the Governing Body of the Council to terminate the service of the applicant as the vacancy was filled up without prior approval of the Screening Committee which is contrary to the DOP&T OM dated 16.5.2001. Accordingly, the services of the applicant were terminated w.e.f. 23.11.2006. His stand is that the termination was just and proper and needs no interference especially because in clause 2(1) of the offer of appointment dated 20.12.2005 it was given to understand to the appointee that his appointment can be terminated at any time without notice and without assigning any reason and that appointment may be terminated at any point of time by giving a month's notice by either side. Right was also reserved by the appointing authority to terminate the services of the appointee forthwith or before the expiry of the stipulated period of notice by making payment of a sum equivalent to the pay and for the period of notice or the unexpired portion thereof. Further stand of the Respondents' counsel is that as per the yard stick of the Government, without clearance of the Screening Committee no vacancy could have been filled up during the period when the applicant was appointed. Next stand of the Respondents' counsel is that the Respondents have a right to rectify the

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mistake committed inadvertently as there is no provision for getting post facto approval of the Screening Committee in the matter of the present appointment and that similar matter came up <sup>for</sup> consideration before the Calcutta Bench of the Tribunal in OA No. 2/SKM/2009. The order passed by the Calcutta Bench of the Tribunal dated 14.7.2009 in the above OA has been stayed in a writ petition (Civil) No. 32 of 2009 filed by the Department challenging the order of the Calcutta Bench before the Hon'ble High Court of Sikkim. In the aforesaid premises, the Respondents' counsel sincerely prayed for dismissal of this OA.

6. We have considered the rival submission of the parties and perused the materials placed on record. It is seen from the record that meanwhile vide order dated 30.7.2010 the Hon'ble High Court of Sikkim, Gangtok dismissed the writ petition preferred by the Respondents, as aforesaid. Petition for Special Leave to Appeal (Civil) No.31172/2010 preferred by the Respondents challenging the order of the Hon'ble High Court of Sikkim before the Hon'ble Apex Court has also been dismissed on 26.11.2010.

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7. In view of the above, we do not have any doubt in our mind to hold that the order of termination of the applicant (Annexure-A/6) as also the order of rejection of his representation (Annexure-A/9) are bad in law. Accordingly, the order under Annexure-A/6 & A/9 are hereby quashed and it is further held that the applicant would be entitled to be treated/entitled to the benefits what had been granted to the applicants before the Calcutta Bench of the Tribunal. Respondents are hereby directed to comply with the direction of this Tribunal within a period of sixty days from the date of receipt of copy of this order.

  
(A.K.PATNAIK)  
MEMBER (JUDL)

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