

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.260/00568/2014

Cuttack this the 21st day of July, 2014

CORAM:

HON'BLE SHRI A.K.PATNAIK, MEMBER(J)
HON'BLE SHRI R.C.MISRA, MEMBER(A)

Khitish Kumar Bhanja
Aged bout 30 years
Son of Batakrushna Bhanja
At/PO-Jeypore
PS-Balianta
Dist-Khurda

...Applicant

By the Advocate(s)-Mr.M.K.Khuntia

-VERSUS-

Union of India represented through

1. The Secretary,
Ministry of Statistics, Programme Implementation
New Delhi
2. The Director
National Sample Survey(Field Operation Division Office)
Sena Park Lane
Nayapada
Gulbazar
Sambalpur

...Respondents

By the Advocate(s)-Mr.M.K.Das



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ORDER**R.C.MISRA, MEMBER(A)**

In this Original Application, applicant has called in question the inaction of the Respondents in extending his service of the as Field Investigator on contractual basis albeit freshers have been engaged ignoring his. In the circumstances, he has sought for the following relief.

- i) To quash the advertisement under Annexure-A/6
- ii) To direct the Respondents to appoint the applicant as Field Investigator on contractual basis
- iii) And pass such other order/direction as deemed fit and proper in the interest of justice in the facts and circumstances of the case.

2. Heard Shri M.K.Khuntia, learned counsel for the applicant and Shri M.K.Das, learned ACGSC for the Respondents on the question of admission.

3. Since this Tribunal has consistently been taking a view to that contractual appointees are not appointed to posts in connection with the affairs of the Union or of State and as such they are not the holder of civil posts, their grievances are not amenable to the jurisdiction of the Tribunal. Being confronted with these queries, learned counsel for the applicant, on the point of maintainability, has relied on the three decisions, which are as under.



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- i) 1993 SC (L&S) – Union of India & Ors. Deep Chand Pandey & Another
 - ii) 213 OLR (II) 210 – Dilip Kumar Baral vs. BPUT, Rourkela & Another
 - iii) 2010 OLR (Suppl. Vol2) Hrushikesh Sethi vs. State of Odisha & Ors.

3. We have gone through the above decisions. In Union of India & Ors. Vs. Deep Chand (supra), the point raised therein was whether the Central Administrative Tribunal is vested with the jurisdiction to entertain and decide the claim of the respondents as against the petitioners Union of India and its officers in the Railway Department and consequently the High Court had no jurisdiction to deal with the matter.

4. In that case respondents were engaged in the office of Deputy Chief Engineer (Construction) Central Railway, Gwalior as casual typists on daily wages and their services were wrongly terminated. The respondents challenged the order by writ petitions before the Madhya Pradesh High Court which have been allowed by the impugned judgment. The Hon'ble Supreme Court held therein that *"an examination of Section 14 and Section 3(q) clearly indicates that the act covers a very wide field, and there is nothing to suggest that the provisions dealing with the jurisdiction of the Tribunal should receive a narrow interpretation"*. The Hon'ble Supreme Court further held that *"the necessary conclusion, therefore, is, that the remedy of the respondents was before the Tribunal and not the High Court. We, accordingly, hold that the High Court did not*



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have the jurisdiction to entertain the claim of the respondents. Consequently, the impugned judgment is set aside, the writ petition before the High Court is dismissed and these appeals are allowed, but without costs".

2. The another decision relied on by the applicant in Dillip Kumar Baral(supra) is regarding merit of the matter to the effect that an adhoc or temporary employee should not be replaced by another adhoc or temporary employee.
3. The third decision relied on by the applicant in Hrusikesh Sethi vs. State of Orissa & ors. as mentioned in the Memo, has not been filed.
4. The decision of the Hon'ble Supreme Court in Deep Chand (supra) concerns employees' claiming regularization who where engaged on casual Typists under the Railways. In the instant case, applicant had been engaged on contractual basis which having been already over and on being advised, he had submitted certain representation. Since his representation has not been considered and on the other hand some advertisement has been issued vide Annexure-A/6 regarding engagement of Field Investigator on contractual basis, applicant has moved this Tribunal. Therefore, the facts in Deep Chand case and in the present O.A. are distinguishable.
5. This Tribunal, as indicated above, has been taking a consistent view that contractual employees are not amenable to the jurisdiction of the Tribunal as they are not the holder of civil posts under the Union of



India. In this connection, we would like to quote hereunder the judgment of the Hon'ble Supreme Court in S.I.Roopl Vs Lt Governor Delhi [C.A Nos.5363-64 of 1997 with Nos.5643-44 of 1997 decided on December, 14, 1999] – 2000 Supreme Court Cases (L&S) 213 is worth mentioning. The Hon'ble Apex Court has clearly laid down the law that the Coordinate Bench of a Court cannot pronounce judgment contrary to the declaration of law made by another Bench. It can only refer to a larger Bench, if it disagrees with the earlier pronouncement. The Hon'ble Apex Court has further observed that judicial consistency has to be maintained while passing orders. The relevant portion of the judgment of the Hon'ble Supreme Court in S.I.Roopl (supra) is quoted hereunder.

“ At the outset, we must express our serious dissatisfaction in regard to the manner in which a co-ordinate Bench of the Tribunal has overruled, in effect, an earlier judgment of another co-ordinate Bench of the same Tribunal. This is opposed to all principles of Judicial discipline. If at all, the subsequent Bench of the Tribunal was of the opinion that the earlier view taken by the co-ordinate Bench of the same Tribunal was incorrect, it ought to have referred the matter to a larger Bench so that the difference of opinion between the two coordinate Benches on the same point could have been avoided. It is not as if the latter Bench was unaware of the judgment of the earlier Bench but knowingly it proceeded to disagree with the said judgment against all known rules of precedent. Precedents which enunciate rules of law form the foundations of administration of justice under our system. This is a fundamental principle which every Presiding Officer of a Judicial forum ought to know, for consistency in interpretation of law alone can lead to public



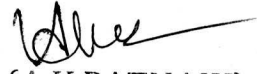
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confidence in our Judicial system. This court has laid down time and again that precedent law must be followed by all concerned, deviation from the same should be only on a procedure known to law. A subordinate Court is bound by the enunciation of law made by superior Courts. A coordinate Bench of a Court cannot pronounce Judgment contrary to declaration of law made by another Bench. It can only refer it to a larger Bench if it disagrees with the earlier pronouncement".

For the reasons discussed above, we hold that the present O.A. is not maintainable before this Tribunal and accordingly, the same is rejected without being admitted. No costs.



(R.C.MISRA)
MEMBER(A)



(A.K.PATNAIK)
MEMBER(J)