

**ORISSA HIGH COURT  
CUTTACK**

**W. P. (C) NO.5095 OF 2003**

In the matter of an application under Articles 226 & 227 of the Constitution of India.

Jibanananda Mohapatra  
Petitioner

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Versus

Union of India and others

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Opposite Parties

For Petitioners - M/s Manoj Mishra, P. K. Das,  
D. K. Patnaik, B.B. Mohanty  
and P.K.Nanda

For Opp.Parties - Mr. P.K. Parhi,  
Addl. Standing Counsel (Central)  
(for opposite parties 1 & 2)

M/s G. Mohanty and A. Jena  
(for opposite party no.3)

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**PRESENT :-**

**THE HON'BLE MR. JUSTICE I.M.QUDDUSI  
AND  
THE HON'BLE MR. JUSTICE PRADIP MOHANTY**

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**PRADIP MOHANTY, J.** In the instant writ application, the petitioner challenges the order dated 24.04.2003 of the Central Administrative Tribunal, Cuttack Bench, passed in O.A. No.203 of 2003 as well as the order of termination dated 20.01.2003 passed by opposite party no.3-Official Liquidator, as illegal, unjust, improper and violative of

principles of natural justice, having been passed without following the due procedure of law.

2. The case of the petitioner is that he was appointed as a company paid clerk-cum-typist under the Official Liquidator-opposite party no.3 by way of interview on 06.11.1989. He continued in the said service as a company paid staff. He had been discharging his duties to the utmost satisfaction of his higher authorities. On 12.12.1999, he appeared in an interview for being absorbed in the regular establishment as per the Hon'ble apex Court's direction, but was not selected and so not regularised. However, he continued in the former post. On 20.01.2003, opposite party no.3 issued an order terminating the services of the petitioner with effect from 20.02.2003. Thereafter, the petitioner approached the Central Administrative Tribunal, Cuttack Bench in O.A. No.203 of 2003, but the Tribunal by its judgment dated 20<sup>th</sup> April, 2003 dismissed the O.A. holding that there remained nothing to be adjudicated as the services of the petitioner had already been terminated as per the order of the Hon'ble Company Judge.

3. The case of the opposite parties is that the petitioner was appointed under Rule 308 of the Companies (Court) Rules, 1950 as a company paid staff. The Hon'ble Company Judge directed the Official Liquidator to take steps to dispense with the services of the existing company paid staff in accordance with law. In compliance of the said order of the Hon'ble Company Judge, opposite party no.3 issued the office order dated 20<sup>th</sup> January, 2003 whereby the services of the company paid staff, irrespective of their appointment on regular basis, contract basis or daily wage basis, were terminated by giving 30 days mandatory notice. Though all the company paid staff including the petitioner, whose services had been terminated, made a joint representation, the same was not considered by the Hon'ble Company Judge.

Undisputedly, the petitioner was appointed as a company paid clerk-cum-typist under opposite party no.3 in due process of selection. He worked in the post from November, 1989 till his services were terminated on 20.01.2002. It seems that the petitioner was asked to appear in the interview for consideration of his case for regular appointment in terms of the judgment of the Supreme Court. He was the only incumbent in the office who had fulfilled the prescribed requirements as per the recommendation of the Official Liquidator vide Annexure-4. However, the petitioner could not be selected for being appointed in the regular establishment and soon thereafter he was terminated.

4. Learned counsel for the petitioner submitted that since the petitioner was working from 1989 as a company paid staff, he should be regularized in view of the judgment of the Hon'ble apex Court in ***Government of India -v- Court Liquidator's Employees Association, etc.***, AIR 2000 SC 405. Since similarly situated company paid staff working under Official Liquidators of different High Courts have been continuing in service, the termination of the petitioner and non-consideration of his case for regularization is discriminatory. In the aforesaid reported case, the question before the Hon'ble apex Court was whether the persons appointed by the Official Liquidator were entitled to equal pay and regularisation as the employees appointed by the Central Government in the office of the Official Liquidator. The Government considered various options to find out an acceptable solution in regard to company paid staff and offered three options. The apex Court accepted the first option given by the Central Government and directed the Official Liquidator to frame a scheme modeled on the 1978 Scheme of Department of Company Affairs within six months and give effect to the same to facilitate absorption of those company paid staff.

5. In the midst of hearing, an additional affidavit has been filed by the petitioner that 43 companies are now under

liquidation and the financial position of the Official Liquidator has improved. In reply, though an additional counter affidavit has been filed by opposite party no.3, he has not specifically denied the above fact. Keeping in view the ratio decided in the case of Court Liquidator's Employees Association (supra), this Court directs opposite party no.3 to frame a scheme as per the guidelines of the Hon'ble apex Court, if not already prepared, within six months and absorb the petitioner and other similar persons. This Court further directs that till framing of such scheme for absorption of company paid staff, petitioner may be allowed to continue on ad hoc basis whenever any vacancy arises.

6. In view of the above discussion, this writ petition is allowed and the impugned judgment of the Tribunal as well as the order of termination dated 20.01.2003 passed by opposite party no.3 is quashed. No order as to costs.

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**PRADIP MOHANTY,J.**

**I.M.QUDDUSI,J.** I agree.

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**I.M.QUDDUSI,J.**

Orissa High Court, Cuttack  
March 22, 2006 / **Samal.**