

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No.13747/2000
(From the judgement and order dated 01/12/1999 in OJC 7730/99
of The HIGH COURT OF ORISSA AT CUTTACK)

STATE OF ORISSA Petitioner (s)

VERSUS

CHANDRA SEKHAR MISHRA Respondent (s)

(With prayer for interim relief)

Date : 06/11/2000 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. KIRPAL
HON'BLE MR. JUSTICE B.N. AGRAWAL

For Petitioner (s)

Mr. Janaranjan Das,Adv.
Mr. D P Mohanty and Mr. K K Mahalik,Advs.

For Respondent (s)

Ms. Suman Bala Rastogi,Adv.

UPON hearing counsel the Court made the following
O R D E R

.....L.....I.....T.....T.....T.....T.....T.....T.....T.....T....J.R

Special leave granted.

This appeal is allowed and the orders of the High Court and the Tribunal are set aside, the effect of which would be that the O.A. filed by the respondent before the Tribunal would stand dismissed.

No costs.

(D.P. Walia)
Court Master

(S.L. Goyal)
Court Master

(Signed Order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2000@@
CC
[arising out of S.L.P.(C) No. 13747 of 2000]

State of Orissa

..Appellant

vs.

Chandra Sekhar Mishra

..Respondent

O R D E R@@
CCCCCCCC

.SP2

Special leave granted.

Heard counsel for the parties.

In the instant case, the respondent was appointed as Homoeopathic Medical Officer and he was issued a notice dated 13th December, 1977 informing him that his services would be terminated with effect from 31st January, 1978. The respondent chose to challenge the order of termination by filing an O.A. in 1992. The Tribunal by order dated 23th November, 1995 directed that a representation be filed with the State Government. The said representation was filed and the same was rejected. The respondent again approached the Tribunal and the Tribunal purporting to follow orders which had granted relief to other claimants allowed the O.A. and directed the appellant herein to appoint the respondent as a Homoeopathic Medical Officer with retrospective effect with all service benefits.

In our opinion, there were two fundamental errors in that relief being granted to the respondent. Firstly, the services of the respondent were terminated with effect from

- 2 -

31st January, 1978 and the respondent did not approach the Tribunal within the period of limitation provided by the statute. On this ground alone, the Tribunal should not have entertained the appeal. Secondly, the respondent was appointed on 1st February, 1972 on contract basis for a period of three years. This period of contract was extended upto 31st January, 1978. When the respondent was only a contractual employee, there could be no question of his being granted the relief of being directed to be appointed as a regular employee.

For the aforesaid reasons, this appeal is allowed and the orders of the High Court and the Tribunal are set aside, the effect of which would be that the O.A. filed by the respondent before the Tribunal would stand dismissed.

No costs.

.SP1

.....J.
(B.N. KIRPAL)

.....J.
(B.N. AGRAWAL)

New Delhi;
November 6, 2000.