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**(2009) 03 OHC CK 0097**  
**In the Orissa High Court**

Dr. Prafulla Kumar Sahoo

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

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**Date of Decision :** 04-03-2009

**Acts Referred:**

Administrative Tribunals Act, 1985 — Section 19  
Constitution of India, 1950 — Article 323A

**Citation :** (2009) 108 CLT 840 : (2009) 2 OLR 709

**Hon'ble Judges :** B.P. Ray, J;B.P. Das, J

**Bench :** Division Bench

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**Judgement**

1. Heard Mr. B. Routray, learned Counsel for the petitioner, learned Counsel for the State for opposite party Nos. 1 and 2, Mr. A.A. Das, learned Counsel for the opposite party No. 3 and Mr. M.K. Mishra and Mr. U.C. Mohanty, learned Counsel for the interveners.

2. The petitioner in this writ application challenges the impugned order dated 9.5.2008 passed by the Orissa Administrative Tribunal, Cuttack Bench, Cuttack in Original Application No. 930 (C) of 2008 directing opp.party-the Principal Secretary to Govt. in Health & Family Welfare Department to consider the representation of the petitioner.

3. The case of the petitioner has been narrated in paragraph 2 of the impugned order. The learned Tribunal disposed of the Original Application at the stage of admission without entering into the merit of the case with a direction to present opp.party No. 1 to consider the averments made in the O.A. along with the Annexure particularly his representations under Annexure-7 series to the O.A. and pass appropriate order within a period of three months from the date of receipt of the copy of the order and communicate the same to the petitioner within the said time. It is submitted that the said representation of the petitioner has been rejected. .

4. The petitioner has come before this Court challenging the aforesaid order on the ground that the matter which was placed before the Tribunal for adjudication

has not been adjudicated and it was left to opp.party No. 1 i.e. State Government to consider his representation.

5. We may refer to Section 19 of the Administrative Tribunals Act, 1985 under which an application is filed before the Tribunal in the prescribed form. The Rule 4 of the Orissa Administrative Tribunal (Procedure) Rules, 1986 prescribes the application form in Form-I and under column 9 thereof the applicant is to furnish the details of the remedies exhausted, i.e. the details of the representations made and the outcome of such representations. In the present case, the petitioner-applicant had made a representation on 15.3.1998 to the authorities, which is pending for adjudication. Since the petitioner could not get any result of the representation, he approached the Tribunal.

6. The intention of the Legislature to establish the Administrative Tribunals is to provide for the adjudication or trial by Administrative Tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation or society owned or controlled by the Government of India in pursuance of Article 323-A of the Constitution of India and for matters connected therewith or incidental thereto. The Statements of Objects and Reasons indicates that the Bill seeks to give effect to the Constitutional provision under Article 323-A by providing for establishment of an Administrative Tribunal for the Union and a separate Administrative Tribunal for a State or a Joint Administrative Tribunal for two or more States. The Bill also provides for the jurisdiction, powers as well as procedures to be followed by the State Tribunals. The Statement of Objects and Reasons further speaks that the establishment of Administrative Tribunal under the aforesaid provision of the Constitution has become necessary since a large number of cases relating to service matters are pending before the various Courts. It is expected that the setting up of such Administrative Tribunals to deal exclusive with service matter would go a long way in not only reducing the burden of the various Courts and thereby giving them more time to deal with the cases expeditiously but would also provide to the persons covered by the Administrative Tribunals speedy relief in respect of their grievances.

7. The petitioner has approached the Tribunal for redressal of the grievance made in the Original Application, but the Administrative Tribunal has only referred the matter to the authority before whom his representation is pending unheeded and unattended for years together, thereby he was forced to apply the same authority from whom, he may not get the justice. The Tribunal is to adjudicate the dispute and can not shift its responsibility and confine its jurisdiction only to direct the State Government to treat the O.A. of the petitioner as representation and take a decision on the same. It is due to failure on the part of the Administrative Authority to give justice to such claim of persons, who were in Govt. service, the legislatures thought it proper to enact the Administrative

Tribunal Act, and the Administrative Tribunals were created and another reason for the same is to reduce the burden of the High Court which was flooded with cases relating to service matters. From the action of the tribunal in sending back the matter to the Government, it appears that the Administrative Tribunal is acting like a Post Office and not adjudicating the case as the statute demands.

8. Accordingly, we have no hesitation to quash the impugned order dated 9.5.2008 passed by the Tribunal directing the Tribunal to hear the matter afresh on merit and dispose of the same within a period of three months from the date of communication of this order and accordingly we do so. Till then the interim order dated 11.7.2008 shall continue.

9. It is stated by learned Counsel for opp.party No. 3 that in the meantime, he has been promoted to the post of Lecturer. Learned Counsel for the State submits that the DPC will decide the promotion of opp.party No. 3 to the post of Lecturer. All these matters can be taken care of by the Tribunal. If opp.party No. 3 is working, he shall be paid his salary within a period of one month from today.

10. It is stated by Mr. Mohanty, learned Counsel for the intervenor that several similar matters are pending before the Tribunal, which are connected to this writ application. If an independent application is filed for analogous hearing, the Tribunal will consider the same.

11. The writ application is accordingly disposed of.