

Government of Orissa and Another

Vs

Hanichal Roy and Another

Civil Appeal No. 793 of 1993

(S. P. Bharucha, M. Jagannadha Rao JJ)

05.05.1998

ORDER

1. We need not dilate upon the facts in this appeal by special leave against an order of the Orissa Administrative Tribunal. Special leave, it may be mentioned, was granted only in regard to the two respondents herein. They had put in approximately one and a half years' service, but on ad hoc basis. Taking into account the circumstances in which they had so served, the Tribunal held that it found no reason why there should not be a relaxation of the appropriate rule for regularisation of their service and ordered accordingly.

2. The Rule that is relevant reads thus :

"14. Relaxation. - When the Government are of opinion that it is a necessary or expedient so to do, it may by order, for reasons to be recorded in writing, relax any of the provisions of these Rules in respect of any class or category of persons in public interest."

3. The Rule requires the Government to form the opinion, for reasons to be recorded in writing, that it is necessary or expedient to relax any of the provisions of the Rules in public interest in respect of any class or category of persons. We assume for the purposes of this appeal that the case of the respondents herein falls within a "class or category or persons", but we do not think that the Tribunal was right in, in effect, relaxing the appropriate rule itself. Having set out the facts, it should have left it to the Government to take the decision under the rule.

4. The appeal is allowed to the extent that the aforesaid direction by the Tribunal is set aside. The respondents' case shall be examined by the State Government for the purposes of relaxation under Rule 14, having regard to what is stated in the order under appeal and the law as it stands. The decision thereof shall be taken within three months from today.

5. No order as to costs.