

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH : CUTTACK.

ORIGINAL APPLICATION NO.246 of 1987.

Date of decision: December 8, 1987.

Sri Gopinath Barik, son of  
Sri Chintamani Barik, aged about 35 years,  
at present working as Khalasi, Office of  
the C.F.F. Sub-Division, Central Water  
Commission, At/P.O. Balasore, District-  
Balasore. ...

Applicant.

Versus

1. Union of India, represented by  
Secretary, Ministry of Irrigation &  
Agriculture (Central Water Commission),  
New Delhi.
2. The Chairman, Central Water Commission,  
Swabhawan, New Delhi.
3. Superintending Engineer, Central Water  
Commission, H.O. & F.F.C. Circle,  
Hyderabad.
4. Deputy Director, Central Water Commission,  
Central Flood Forecasting Division,  
Bhubaneswar 751 004. Dist-Puri.

... Respondents.

For the applicant : M/s. C.V. Murty &  
C.M.K. Murty, Advocates.

For the Respondents : Mr. Ganeswar Rath, Additional Standing  
Counsel (Central)

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C O R A M :

THE HON'BLE MR. B.R. PATEL, VICE-CHAIRMAN

A N D

THE HON'BLE MR. K.P. ACHARYA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be allowed to  
see the judgment ? Yes.
2. To be referred to the Reporters or not ?
3. Whether Their Lordships wish to see the fair copy  
of the judgment ? Yes.

JUDGMENT

K.P.ACHARYA, MEMBER (J) In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant seeks to quash the order of transfer passed by the competent authority transferring the applicant from Balasore to Madhabarida within the district of Ganjam vide Annexure-5.

2. Shortly stated, the case of the applicant is that he was a Khalasi in the Central Water Commission stationed at Balasore since 1973. The application has been transferred from Balasore to Madhabarida vide Annexure-5 dated 27.5.1986. Being aggrieved by this order of transfer the applicant has invoked the jurisdiction of this Bench for necessary interference.

3. In their counter, the respondents maintained that the order of transfer is not by way of punitive measure and therefore, it should not be struck down and it is further averred that the substitute/successor of the applicant has already joined and therefore, the application should not be allowed.

4. We have heard Mr.C.V.Murty, learned counsel for the applicant and learned Additional Standing Counsel (Central), Mr.Ganeswar Rath at some length. It was submitted by Mr.Murty that the appropriate authority while ordering transfer has not taken into consideration the policy decision taken by the Central Government. In their counter nothing is said that such policy decision was taken into consideration by the appropriate authority. We do hereby quote the policy decision taken by the Central Government as mentioned in regard to transfer of

employees relating to Central Water Commission which has been quoted in a case reported in (1987) 3 ATC 311 ( Charanjit Lal v. Union of India and others ).

" 2. Subject to exigencies of public service and administrative requirements, transfers from one station to another are to be kept to the minimum extent possible.

3. Groups C & D personnel should not normally be transferred from one station to another except to meet the following inevitable contingencies :

- (a) When transfers become essential for purposes of adjusting surplus staff or making up deficiencies of staff.
- (b) On the request of employees on compassionate grounds or on mutual transfer request basis.
- (c) At the time of promotion, when the promotee cannot be adjusted locally for various administrative and other valid reasons.
- (d) For exigencies of service or administrative requirements.

4. When transfers from one station to another are inescapable for any of the aforesaid reasons, persons to be transferred should be in the following order :

- (a) Those who volunteer for transfer.
- (b) Those who have put in the longest stay at a station from which transfers are to be made. For determining the longest stay of an employee, his posting in all the Units located at a given station and in various capacities will be taken into account.
- (c) Those who have put in the longest stay at Delhi/ Faridabad the stay will count after the return from the last posting outside Delhi/ Faridabad. However this will again be subject to the condition that the minimum effective duty period outside Delhi/ Faridabad will not be less than 1½ years. "

5. We would direct that the appropriate authority may consider the policy decision quoted above and pass necessary orders according to Rules. It was also submitted before us by Mr. Murty that a post is still vacant. We are unable to

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ascertain the correctness or otherwise of this situation.

The entire matter is left to the competent authority to pass necessary orders according to Rules and keeping in view the policy decision quoted above.

6. Thus, this application is accordingly disposed of leaving the parties to bear their own costs.

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Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,



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Vice-Chairman

Central Administrative Tribunal  
Cuttack Bench : Cuttack.  
December 8, 1987/S. Sarangi.