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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

ORIGINAL APPLICATION NO. 254 OF 1987.

Date of decision ... December 24, 1987.

Shri B.S. Patnaik, son of late B. Sunder Rao Patnaik
Assistant Postmaster General, Office of the Post Master General,
Orissa Circle, At/P.O-Bhubaneswar, Dist- Puri.

.... Applicant.

Versus

1. Union of India, represented by Secretary, Department of Posts, Dak Bhawan, New Delhi-1.
2. The PostMaster General, Orissa Circle, At/P.O : Bhubaneswar, Dist- Puri.
3. Sri S.Rath, Senior Superintendent of Post Offices, At/P.O : Berhampur, Dist- Ganjam.

.... Respondents.

M/s C.V. Murty & C.M.K. Murty,
Advocates. .. For Applicant.

Mr. A.B. Misra, Sr. Standing Counsel
(Central) .. For Respondents. 1 &

M/s Devananda Misra, Deepak Misra,
and Anil Deo, Advocates .. For Respondent No. 3.

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 have been permitted to see the judgment ? Yes .
2. To be referred to the Reporters or not ? No .
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 prays to quash Annexure-2 containing orders of transfer passed by the Post Master General posting Sri S. Rath, Respondent No.3 to Berhampur as Senior Superintendent of Post Offices and also an order of transfer of the applicant to Berhampur as Superintendent of Post Offices.

2. Shortly statated, the case of the applicant is that he is now posted as Assistant Post Master General attached to the Office of the Post Master General, Orissa Circle, Bhubaneswar. According to the applicant he is due to retire on superannuation on 31.12.1988 and it is said that he belongs to Berhampur town within the district of Ganjam. The post of Senior Superintendent of Post Offices, Berhampur fell vacant on the retirement of one Sri R.N. Padhi and after the retirement of Sri Padhi, Respondent No.3 Sri S. Rath was transferred to Berhampur as Senior Superintendent of Post Offices. Soon after this transfer order was passed, the applicant came up with an application under section 19 of the Administrative Tribunals Act, 1985 (which formed subject-matter of Original Application No. 10 of 1987) praying therein to quash the order of transfer passed by the Post Master General posting Sri S. Rath as Senior Superintendent of Post Offices at Berhampur and it was prayed to command the respondents to post the present applicant in place of Sri Rath as the Director General of Posts & Telegraphs has indicated in his circulars that an incumbent nearing retirement should be posted in his home town, as far as

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possible. Though in the application we had indicated the directives of the Director General of Posts & Telegraphs contained in those circulars, yet we had left the matter to the discretion of the Post Master General to reconsider the same in the light of the directives given by the Director General of Posts & Telegraphs. Despite our judgment passed on 24.6.1987 in Original Application No. 110 of 1987, the Post Master General allowed Respondent No. 3 Sri S. Rath to continue as Senior Superintendent of Post Offices and further grievance of the applicant is that the Post Master General did not use his discretion in favour of the present applicant. Hence this application with a prayer in the same terms as was made in Original Application No. 110 of 1987.

3. In their counter, the respondents maintained that the transfer of Sri Patnaik posting him as the Assistant Post Master General was in the interest of public service. It is further maintained on behalf of the respondents that the ground for seeking transfer by the present applicant was that his mother and his wife were ailing and the ground made by Respondent No. 3 in his application to be posted at Berhampur is to enable him to give his daughters in marriage. According to respondents, posting of Sri S. Rath (Respondent No. 3) at Berhampur was considered more desirable in the interest of administration. In a nut shell, it is maintained on behalf of the respondents due to administrative exigency posting of the applicant was ordered to be at Bhubaneswar and Sri S. Rath, Respondent No. 3 was posted at Berhampur.

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4. We have given our anxious consideration to the arguments advanced at the Bar on this matter. Law is well settled that an order of transfer could be struck down only where it is a case of malafide. In the present case, nobody has pleaded malafide. Learned counsel for the applicant again emphasised the directives given by the Director General of Posts & Telegraphs. After taking into consideration the said directives, the Post Master General feels that posting of these two incumbents at the stations mentioned above and against the post mentioned above is for administrative exigency and convenience. Even though certain judge made laws were relied upon by Mr. Murty, yet on questions of fact, we do not like to interfere with the discretion of the Post Master General because he being the Head of the Postal Department of Orissa is the only competent authority to adjudge about the competence and efficiency of particular incumbents to discharge particular nature of duty assigned to them.

5. In such circumstances, we do not like to interfere in the matter. Hence, the application stands dismissed leaving the parties to bear their own costs.

K. A. Rao
24.12.87
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Member (Judicial)

B.R. PATEL, VICE CHAIRMAN, *I agree.*

Ram Mohan
24.12.87
.....

Central Administrative Tribunal, Vice Chairman.
Cuttack Bench.
December 24, 1987/Roy SPA.