

(4)

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application No. 72 of 1988.

Date of decision : March 9, 1988.

Gokulananda Behera son of late  
Pritibas Behera, aged about 44 years,  
at present working as Civilian Motor  
Driver (C.M.D.) Branch Recruiting Office,  
Sambalpur, At/P.O./Dist. Sambalpur-768004. . .

Applicant.

Versus

1. Union of India, represented by  
Recruiting Director, Army Headquarters,  
Block No.3, R.K.Puram, New Delhi.
2. Zonal Recruiting Office Headquarter  
Recruiting Zone, 1 Gokle Road,  
Calcutta-20.
3. The Officer Commanding,  
B.R.O. At/P.O./Dt. Sambalpur. . .

Respondents.

For the applicant . . . Mr. C. A. Rao, Advocate  
(not present)

For the Respondents . . . N o n e.

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)

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1. Whether reporters of local papers may be allowed 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.

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JUDGMENT

K.P.ACHARYA, MEMBER (J)

The applicant Gokulananda Behera, is a Civilian

Motor Driver working in the Branch Recruiting Office at Sambalpur. The applicant has received orders of transfer from Sambalpur to Berhampur vide Annexure-1. The applicant prays in this application under section ~~19~~ of the Administrative Tribunals Act, 1985 to strike down the order~~s~~ of transfer.

2. We have heard the applicant in person. It was admitted before us that the applicant has already handed over charge of the vehicle which was in his possession to the competent authority in compliance with the order contained in Annexure-1. It was further told to us by the applicant that his substitute/successor has not yet joined at Sambalpur. The applicant is not at all unwilling to join at Berhampur. But he submits that considerable hardship would be faced by him so far as the education of his children is concerned. Hence, it was submitted by the applicant that at least till the end of the current academic session his transfer order could be kept in abeyance and he is willing to carry out the order of transfer soon after the end of the current academic session. We think this is a very reasonable request. But we are unable to ~~give~~ <sup>make</sup> any specific direction in view of the fact that the applicant has already handed over charge on 1st March, 1988. But we would like to say that in case the applicant's successor has not yet joined at Sambalpur, the competent authority should allow the applicant to again join at Sambalpur and the transfer order should be given effect to on or after 20th May, 1988.



3. It was further submitted before us that the applicant has not been given his advance Travelling allowance as contemplated under the Rules. If the applicant makes an application for granting him advance T.A. etc. it should also be given to him before 20th May, 1988.

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

*K.S. S.*  
9.3.88  
.....  
Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

*I agree.*

*Ram Mohan*  
9.3.88  
.....  
Vice-Chairman



Central Administrative Tribunal,  
Cuttack Bench, Cuttack.  
March 9, 1988/S. Sarangi.

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH

Contempt Petition Civil No. 10 of 1988  
( Arising out of O.A. No. 72/88).

Date of decision ... April 12, 1988.

Gokulananda Behera, son of late Pritibas Behera,  
Civilian Motor Driver, ( C.M.D. ) Branch Recruiting Office,  
Sambalpur, At/P.O/Dist- Sambalpur- 768004 ... Petitioner

Versus

1. Major Vijay Anand,  
Branch Recruiting Officer,  
P/95/Sanipali, Sambalpur- 763004.
2. Zonal Recruiting Officer,  
Headquarters Recruiting Zone,  
1, Gokle Road, Calcutta-20 ( W.B. ) ... Opp. Parties .

Mr. C.A.Rao, Advocate .. For Petitioner.  
Mr. A.B.Misra, Sr. Standing  
Counsel ( Central ) .. For Opp. Parties

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 allowed 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), The petitioner- Gokulananda Behera is a Civilian Motor Driver working in the Branch Recruiting Office at Sambalpur. Being aggrieved by the order of transfer passed by the competent authority transferring him from Sambalpur to Berhampur, the petitioner invoked the jurisdiction of this Bench by filing an application under section 19 of the Administrative Tribunals Act, 1985 praying therein to quash the order of transfer which formed subject matter of Original Application No. 72 of 1988. In the said judgment, we directed as follows :-

" But we would like to say that in case the applicant's successor has not yet joined at Sambalpur, the competent authority should allow the applicant to again join at Sambalpur and the transfer order should be given effect to on or after 20th May, 1988 ".

After we disposed of the matter accordingly, it is said that the judgment has not been given effect to even though the successor of the petitioner has not joined at Sambalpur. Hence the application for initiating a proceeding for Contempt against the Officer Commanding, Branch Recruiting Office stationed at Sambalpur.

2. We have heard Mr. C.A.Rao, learned counsel for the petitioner and Mr. A.B.Misra, learned Sr. Standing Counsel for the Central Government at some length. In the meanwhile, we have received correspondence from Mr. Hamir Singh, Deputy Zonal Recruiting Officer and this letter has been addressed to the Central Administrative Tribunal,

Cuttack Bench on behalf of the Zonal Recruiting Officer in which it is said that the contention of the applicant that he should be allowed to move on or about 20th May, 1988 does not appear to be logical. The question of dealing with the contention of the petitioner does not arise. There was a direction from this Bench as quoted above. After the Bench had accepted the contention of the petitioner, it was not any further open to the Zonal Recruiting Officer or the Deputy Zonal Recruiting Officer to make any comments thereon especially saying that it is illogical. *Prima facie* it does amount to contempt but we feel inclined to take a lenient view of the matter because we are aware of the position that certain officers are not acquainted with the practice, convention etc. prevalent while dealing with Courts. Undoubtedly, this language should not have been used in the letter stated above. Therefore, we would caution both the Zonal Recruiting Officer and the Deputy Zonal Recruiting Officer to be careful in future while expressing any opinion on the judgment pronounced by any court. However, having known from the correspondence that the successor has not yet joined at Sambalpur, we would direct that the petitioner be allowed to join at Sambalpur and be relieved on 20.5.1988 so as to join at Berhampur and accordingly the transfer order would be given effect to. In case the petitioner makes any application for grant of advance T.A. etc. it should be paid to him forthwith to enable him to move out from Sambalpur to Berhampur. It was told by the learned counsel for the petitioner that the petitioner has not been paid his salary due to him in respect of the

month of March, 1988 which should be paid to him within seven days from the date of receipt ~~or receipt~~ of a copy of this judgment.

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

*Same day*  
12.4.88

.....  
Member (Judicial)

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

*Same day*  
12.4.88  
.....  
Vice Chairman.

Central Administrative Tribunal,  
Cuttack Bench.  
April 12, 1988/Roy, SPA.