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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application No. 153 of 1989

Date of decision: 25th April, 1989

1. Bsuudev Nayak, S/o Brundaban Nayak  
Sorting Assistant, R.M.S. 'N' Division,  
Cuttack.
2. Kailash Chandra Pati,  
S/o Late Padmalochan Pati,  
Sorting Assistant, R.M.S. 'N' Division  
Cuttack.
3. Dhruba Charan Mallik,  
S/o Govinda Charan Mallik  
Sorting Assistant,  
R.M.S. 'N' Division,  
Cuttack.
4. Daitari Sahoo,  
S/o Late Dinabandhu Sahoo  
Sorting Assistant,  
R.M.S. 'N' Division,  
Cuttack.
5. Bisnu Charan Bhoi,  
S/o Late Nilamani Bhoi  
Sorting Assistant,  
R.M.S. 'N' Division,  
Cuttack. .... .... Applicants

-Versus-

1. Union of India,  
represented through  
Director General of Posts  
Services, Dak Tar Bhawan,  
New Delhi-1
2. Chief Post Master General,  
Orissa Circle, Bhubaneswar
3. Sr. Superintendent R.M.S. 'N'  
Division, Cuttack.
4. Head Record Officer,  
R.M.S. 'N' Division, Cuttack.
5. Paramananda Mohanty  
son of Nilamani Mohanty  
Village-Baruan, P.O. Baruan,  
P.S. Kamakhyanagar, Dist.  
Dhenkanal.

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6. Prafulla Kumar Behera,  
Son of Late Ganesh Behera,  
At/P.O.Tulasipur,  
P.S.Lalbag, Dist.Cuttack.
7. Golak Chandra Mallick,  
Son of Durga Charan Mallick,  
Village-Raghabpur  
P.O.Sisua, Via-Salipur  
P.S.Salipur, Dist.Cuttack.
8. Sarat Chandra Moharana,  
Son of Bhima Moharana,  
Village-Satabati,  
P.O.Chhanipur, Dist.Cuttack.
9. Ahmed Sarif,  
Son of late Hayat Sarif,  
At.Kasharpur, P.S.Mangalabagh  
Dist.Cuttack.
10. Rajendra Sethi,  
Son of Panu Sethi,  
Village-Gouranga Patna,  
P.O.Bahugaon, Dist.Cuttack.
11. Subash Chandra Behera,  
Son of Ratha Behera,  
Village-Matagajpur,  
P.O.Biribati, P.S.Sadar, Cuttack.
12. Debendra Kumar Nayak  
son of Madhusudan Nayak,  
Village-Salapada, P.O.Salapada,  
P.S.Barchana, Dist.Cuttack.
13. Hemanta Kumar Mohanty  
son of Golekh Charan Mohanty  
Village-Badapal, P.O.Paida,  
Via-Tiran, P.S.Ersama, Dist.Cuttack.
14. Suryamani Jena, S/o Late Kalandi  
Charan Jena, Village- Sarasuda, P.O.  
Sidheswarpur, P.S.Jagatsinghpur  
Dist.Cuttack.

.... Respondents

For the Applicants ... M/s.Jayant Das, S.K.Purohit  
B.K.Sahoo, B.S.Tripathy, S.Mallik &  
K.P.Mishra, Advocates

For the Respondents .. Mr.A.B.Misra, Senior Standing Counsel  
No.1 to 4 (Central)

For Respondents No. 5 to 14

M/s. Devanand Mishra  
Deepak Misra  
R.N.Naik &  
A.Deo, Advocates

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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)

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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~~ not ?

3. Whether Their Lordships wish to see the fair copy of the Judgment ? YES

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JUDGMENT

K.P.ACHARYA, MEMBER (J) In this application under section 19 of the Administrative Tribunal's Act, 1985 the Petitioners (5 in numbers) pray to quash the impugned order contained in Annexure-3 holding that the Petitioners should continue in the running section for the year 1989 as per the Circular letter contained in Annexure-2 and pray that the procedure adopted by Opposite Party No.3 is bad in law and hence ~~is~~ ab initio void.

2. Shortly stated, the case of the Petitioners is that they are at present working as Sorter/Mail Agent in the Railway Mail Services (Northern Division) in the town of Cuttack. These 5 Petitioners are members of the running Staff moving in trains and their duties is sorting mails and sealing the package. Familarly they are known as members of the running section. According to petitioners vide Annexure-2 Director General P & T ordered that the members of the running section should continue as such for a period of one year commencing from January, 1989. Further the case of the petitioner is that they (Petitioners) were posted as members of the running staff in January, 1989. Pursuant to Annexure-1 the Superintendent of Post Offices (R.M.S. Division) (O.P.No.3) vide Annexure-3 withdrew the Petitioners from the running section and posted them in the Station Mail offices. Hence the 5 petitioners feel aggrieved by the order contained in Annexure-3 and hence this application with the aforesaid prayer.

3. In their Counter, the Opposites maintained that no illegality has been committed and there has been no violation ~~will~~ of the direction of the Director General Posts by issuance of Annexure-3 and hence the case being devoid of merit is liable to be dismissed.

4. Before we express our opinion on the respective contention of the parties before us, it is worthwhile to note that 10 mail guards filed an application for intervention and their prayer was allowed and those 10 mail guards have been allowed to act as intervenors.

5. We have heard Mr.J.Das, Learned Counsel for the Petitioner and Mr.A.B.Misra, learned Senior Standing Counsel (Central) and Mr.Deepak Misra, learned Counsel appearing for the intervenors in this case. Mr.Dash on behalf of the petitioners strenuously urged before us that the order contained in Annexure-3 is completely violative of the direction of the Director General of Posts. In this connection, contention of Annexure-2 should be quoted. The relevant portion runs thus:-

"It has been now been decided that the rotation of staff between mail office and running sections may be made annually instead of 6 monthly. The annual rotation period would start from 1st January to 31st December, every year starting from 1st January, 1981. For the existing period up to 31st December, 1980, the existing system may continue".

6. There is no necessity to probe into this <sup>as per</sup> ~~case~~ in extenso and so also submission made by Mr.Jayant Dash because the learned Senior Standing Counsel Mr.A.B.Misra very fairly submitted before us that by virtue of issuance of Annexure-3 it is never meant to withdraw the present petitioners from the running section. Mr.Misra further submitted that except petitioner

No.2 none have been withdrawn and they (including petitioner no.2) shall continue in the section until further orders are issued by the Competent Authority. In view of this statement made by the learned Standing Counsel (Central) on behalf of the Central Government, we are of opinion bound that the Opposite parties would stand by this statement and necessarily there would not be any further grievance of the petitioners but at the same time learned Standing Counsel (Central) submitted that whenever any of the petitioner remains absent from duty leave should be given to the Opposite party

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no.3 to place substitute otherwise work would be seriously affected. We cannot but say that this suggestion/proposal or submission of the learned Standing Counsel (Central) is very wholesome. We therefore grant leave to opp. party no.3 to place substitute in case any of the petitioners remain absent from duty.

7. Action taken by Opposite party no.3 in Annexure-3 was supported by Mr. Deepak Misra appearing for the intervenor and Mr. Deepak Misra submitted that the Petitioners have no right to continue as members of the running section in view of the direction issued by the Director General of Posts contained in Annexure-B, dated 25th January, 1989 vide Director General Posts letter no. 6-29/87-PE-II. Mr. Misra submitted that the Director General of Posts has ordered that status quo should be maintained till the

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final decision is arrived at by the committee specially constituted on this item and therefore the arrangement as in force on 28th January, 1988 should be restored. For better appreciation of the contention of Mr. Deepak Misra we think it worthwhile to quote the above mentioned letter. It runs thus:

"The issue of posting of sorting Assistant to work as Mail Agents in important trunk route transit sections was discussed in the Fourth Ordinary meeting of the Departmental Council (JCM) held on 28th and 29th January, 1988 and it was agreed to maintain the status-quo till a final decision is arrived at by the Committee specially constituted on this item."

"Necessary action if any may be taken to restore the position as on January, 1988".

8. Contention of Mr. Deepak Misra is that the a decision having been taken in the meeting held on 28th January, 1988 to maintain "Status-quo" rightly the Director General said that necessary action should <sup>be</sup> taken to restore, the position as it stood in January, 1988. Even though contention of Mr. Deepak Misra may not be wholly rejected yet another interpretation can be given on this letter namely statusquo as on the date of issue of this

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letter should be maintained. This virtually means arrangements as on January, 1989 should continue till final decision is taken by the committee. Of course <sup>an</sup> anomalous position is ~~undoubtedly created~~ by the next line that necessary action should be taken to restore the position as on January, 1988 which runs contrary to the direction contained in paragraph-1 of Annexure-B, quoted above. In such a situation it is only the Director General of Posts who is competent to clarify the matter. Of course Learned Standing Counsel (Central) vehemently opposed this and submitted that a very high officer like that of the Director General should not be called upon to allot duties. We are ~~in complete~~ in agreement with learned Standing Counsel (Central). We do not propose to call upon the Director General to allot duties to his different employees which is a duty of the Senior Superintendent of post office under the guidance of supervision of the Postmaster General. But our intention in requesting the Director General for a clarification of this apparent ~~of~~ dichotomy in the letter because it is Director General who is only competent to clarify the matter so that the entire controversy would be nipped in the bud. Therefore we direct that pending receipt of clarification from the Director General of posts, the Petitioners shall continue as members of the running section and Senior Superintendent of Posts (C.P.No.3) would act in future according to the clarification issued by the Director General of Posts. We hope and trust that in view of the urgency of the matter

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the Director General of posts would issue the clarification preferably within a couple of months from the date of receipt of a copy of this judgment and will take its final decision and communicate as soon as possible so that Multiplicity of litigation could be avoided and also for the purpose of smooth administration.

Stay order passed by this Bench stands vacated and the application is accordingly disposed of leaving the parties to bear their own costs. Send a special copy of this judgment to O.P.No.1-Director General of Posts for his information and immediate necessary action.

*Ke. A. S. S. P.*  
..... 25/4/89 .....

..... MEMBER (JUDICIAL) .....

B. R. PATEL, VICE-CHAIRMAN

I agree.

Central Administrative Tribunal  
Cuttack Bench  
25th April, 1989 /Mohapatra

..... *Ke. A. S. S. P.* 25.4.89 .....

..... VICE-CHAIRMAN .....