

Central Administrative Tribunal  
Cuttack Bench: Cuttack

Original Application No.401 of 1991

Date of decision: 28.8.1992

Arun Bihari Mohanty and others : Applicants

Versus

Union of India and others : Respondents

For the Applicants : M/s Devanand Misra,  
Deepak Misra,  
R.N.Naik,  
A.Deo,  
B.S.Tripathy,  
P.Panda,  
Advocates.

For the Respondents : Mr. Aswini Kumar Misra, Sr. St. Counsel

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CORAM:

THE HONOURABLE MR. K.P.ACHARYA, VICE CHAIRMAN

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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 His Lordship wish to see the fair copy of the judgment? Yes.

12

JUDGMENT

K.P.ACHARYA, V.C.

In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioners (three in number) pray to quash the order contained in Annexure 5.

2. Shortly stated the case of the petitioners is that the petitioners are working as Drivers and they have been confirmed as permanent employees of the Postal Department. Prior to 26th April, 1991, the petitioners were working as Drivers in General Section under the Superintendent of Post Offices, Cuttack (M) Division, Senior Superintendent of Post Offices, Cuttack City Division and Manager, Postal Printing Press, Bhubaneswar respectively. The Opposite Party No. 5 to 7 were working in Mail Motor Service as Drivers under the Opposite Party No. 4. Vide notification dated 2.9.1991, circulated by the Chief Post Master General on the basis of the notification issued by the Director General, contained in Annexure 1 it was ordered that there should be a rotation of drivers among the Mail Motor Service. After the option was exercised by the Petitioners, they were transferred as Mail Motor Drivers on rotational basis and Opposite Party Nos. 5 to 7 were posted in the General Section. Vide Annexure 4. All of a sudden this was cancelled vide order contained in Annexure 5 dated 1st November, 1991. Being aggrieved by the order of cancellation contained in Annexure 5, this application has been filed with the aforesaid prayer.

3. In their counter, the Opposite Parties maintained that the concerned authority has acted upon ~~to~~ the directions given by the higher authorities with the idea that all the employees should <sup>derive benefits</sup> ~~derive~~ on equal ~~footing~~ <sup>footing</sup>. There being no

12

13

illegality committed by any authority, ~~Hence~~ Annexure 5 should not be quashed and the application should be allowed.

4. I have heard Mr. Deepak Misra learned counsel appearing for the petitioner and Mr. Aswini Kumar Misra learned Standing Counsel(CAT) for the Opposite Parties on the merit of this case.

5. The admitted case of the parties before me is that after the transfer order was passed and during the pendency of this application the petitioners and Opposite Party Nos. 5 to 7 have joined their respective place of posting. In such circumstances the application has become infructuous.

6. Mr. Deepak Misra learned Counsel appearing for the Petitioners submitted with emphasis that the policy decision taken by the Government has been challenged and therefore, expression of opinion by the court is necessary. Grievance of the Petitioners, if any, is confined to the violation of administrative instructions. In the case of Mrs. Shilpi Bose and others Vs. State of Bihar and others reported in AIR 1991 SC 532, Their Lordships have observed that if there is violation of any administrative instructions the affected party should move the higher authority. Therefore, if so advised, the petitioners may approach the higher authority by making representation which could be legitimately disposed of by such authority. Hence this application is disposed of as infructuous. No costs.

*hsc* *28/8/92*  
VICE CHAIRMAN



Central Administrative Tribunal,  
Cuttack Bench, Cuttack. K. Mohanty.