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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO. 288 OF 1993

Date of decision : July 5, 1993

Mr. Gurudutta Samal

Applicant

Versus

Union of India and Others

Respondents

(for instructions)

1. Whether it be referred to the Reporter or not? *No*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? *No*

1.5 p.m.

(H. RAJENDRA PRASAD)

MEMBER (ADMN.)

05 JUL 93

Received 5.7.93
5.7.93

(K.P. ACHARYA)
VICE-CHAIRMAN

JUDGMENT

K.P.ACHARYA, V.C.

In this application under section 19 of the Administrative Tribunals Act, 1985, the petitioner prays to quash Annexure 3 forming subject matter of Postmaster Order Book No.8 dated 22nd May, 1993 in which the Petitioner Shri G.D.Samal, P.A., N.S.C.-I is directed to work as P.A. Accounts Branch with effect from 24th May, 1993.

2. Shortly stated the case of the petitioner is that he has been working in the post from which he has been transferred and this post carries a special allowance of Rs.60/- per month. According to the petitioner, the appointments are being made to the Post in question only when a particular candidate turns out successful in the aptitude test. Therefore, the case of the petitioner is that the petitioner being ^{the} senior-most amongst the successful candidates, who had passed out the aptitude test, he should not be disturbed from the present post and in case he is disturbed then he should be posted against a post carrying special allowance of Rs.60/-. Non-compliance of this aspect, violates the administrative instruction. Therefore, the impugned order contained in Annexure 3 should be quashed.

On the other hand some inefficiency has been attributed to the petitioner in the counter submitted on behalf of the Central Government.

3. We have heard Mr. Deepak Misra learned counsel for the petitioner and Mr. Akshya Kumar Mishra learned Additional Standing Counsel (Central). Mr. Deepak Mishra learned counsel appearing for the petitioner vehemently pressed before us that in the absence of any suitable candidate having passed the aptitude test and the petitioner being the seniormost officer amongst the successful candidates ^{being} ~~turning~~ successful in the aptitude test, the petitioner, should not have deprived of the special allowance of Rs. 60/- and in case the authorities intend to disturb ^{him} from the present place, he should have transferred to a post carrying a special pay of Rs. 60/- within the Savings Bank Branch. It was further submitted that the petitioner not having ~~been~~ completed his tenure of service he should not have been disturbed from the present post.

On the other hand Mr. Akshya Kumar Mishra learned Additional Standing Counsel (Central) submitted that all these rules on the subject are not mandatory though they are directory/advisable. Therefore, the aforesaid contention of Mr. Deepak Mishra is devoid of merit.

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4. We have given our anxious consideration to the arguments advanced at the bar. Nobody has a right to choose a post. The competent authority is of opinion that the petitioner will be more suitable to work in some other post. We do not like to express any opinion on the contention advanced by Mr. Deepak Misra because lastly it was submitted by ~~the petitioner~~ ^{Mr. Mohanty} that the petitioner intends to file a representation before the Chief Post Master General as the case involves interpretation of Rules. We have no objection. But the representation should be filed within 15 days from today and we hope and trust the Chief Post master General would dispose of the representation according to law as early as possible. But we do ^{feel} not inclined to quash the order contained in Annexure 3 which is hereby sustained. We would also make it clear that this order sustaining the order contained in Annexure 3 should not weigh in any manner with the Chief Postmaster General while disposing of the representation of the petitioner. The stay order stands automatically vacated.

5. Thus, the Original Application is accordingly disposed of. No costs.

Signature
MEMBER (ADMINISTRATIVE)
05 JUL 93

Central Administrative Tribunal
Cuttack Bench, Cuttack/K. Mohanty

5.7.93



Regd. No. 3
5.7.93

VICE CHAIRMAN