

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No. 299 of 1993

Date of Decision: 9.7.1993

Applicant(s)

Versus

Union of India & Others Respondent(s)

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(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? *Ans*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not ? *Ans*

MEMBER (ADMINISTRATIVE) 09 JUL 93

VICE-CHAIRMAN

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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK**

Original Application No. 299 of 1993

Date of Decision: 9.7.1993

V.R.Behera & Others

Applicant(s)

Versus

Union of India & Others

Respondent(s)

For the applicant:

M/s. Deepak Mishra
A. Deo,
B. S. Tripathy
Advocates

For the respondents

M/s. **B. Pal**
O.N.Ghosh,
Standing Counsel
(Rly. Administration)

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C O R A M:

THE HONOURABLE MR. K. P. ACHARAYA, VICE-CHAIRMAN

AND

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN)

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JUDGMENT

MR.K.P.ACHARYA, VICE-CHAIRMAN, In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioners (11 in number) pray to quash the decision taken by the competent authority contained in Annexures 3 and 4.

2. Shortly stated the case of the petitioner is that they are working in the Office of the Assistant Engineer (I) South Eastern Railway in different capacities being posted at Cuttack. The said office has been shifted to Bhadrak and consequently the petitioners have been asked to go to Bhadrak and discharge their duties at Bhadrak. Hence this application has been filed with the aforesaid prayer.

3. In their counter the opposite parties maintain that it is in the interest of the Administration office has been shifted to Bhadrak and consequently some of the incumbents have to go to Bhadrak to discharge their duties and function in the said office. In such circumstances, the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. Deepak Mishra, learned counsel for the petitioner and Mr. B. Pal, learned Standing Counsel appearing for the Railway Administration. Though Mr. Deepak Mishra did not challenge the legality of the shifting of the office of Assistant Engineer (I) from Cuttack to Bhadrak, yet, he strenuously urged that sending these low paid employees to Bhadrak would be very much detrimental to their interest. Therefore, shifting of the petitioners to Bhadrak should be quashed. On the other hand, it was contended by Mr. Pal that some of the employees similarly situated like that of the petitioners are ^{to} discharging their duties entrusted to them

at Bhadrak. If the petitioners resist to go to Bhadrak, equally, other incumbents may offer similar resistance and the work ^{to} be discharged in the said office, would naturally remain in the standstill position and the administration would severely suffer. We find that there is considerable force in the contention of Mr. Pal. Therefore, we are unable to accept the request of Mr. Mishra to quash the impugned order passed in respect of the present petitioners.

5. Lastly Mr. Mishra submitted that option was called for from the petitioners to express their willingness to go to Bhadrak. The petitioners have clearly defaulted in not giving their option in due time, even, ^{though} ~~even~~ this Bench by its order dated 4.6.1993 had extended time to the petitioners, ^{was} ~~which~~ in which, option ^{was} ~~has~~ to be given. However, even if the petitioners have failed to give their option, in due time, we would take a lenient view in the matter and permit the petitioners to give their option to the competent authority within 10 days from to-day, and the competent authority would be at liberty ^{to} ~~to~~ pass necessary orders according to law. We do not propose to express any opinion on the merit of the option to be given by the petitioners. It is completely left to the discretion of the competent authority.

6. Mr. Mishra further submitted that in case an adverse order is passed against the petitioners by the competent authority, directions should be given by this Court by permitting the petitioners to join at Bhadrak, two months after such ^{order} ~~is~~ passed. This was stiffly opposed by Mr. B. Pal learned Standing Counsel. We are also not prepared to give any direction on this account as all these aspects ^{are} ~~left~~

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 completely ^{to} at the discretion of the competent authority. We hope and trust, till the final orders are passed on the option to be given by the petitioners, the administration will be well advised not to shift the petitioners to Bhadrak and we hope, the orders would be passed by the competent authority on the option given by the petitioners, preferably within 15 days from the date of filing of such option.

7. Thus the application is accordingly disposed of.

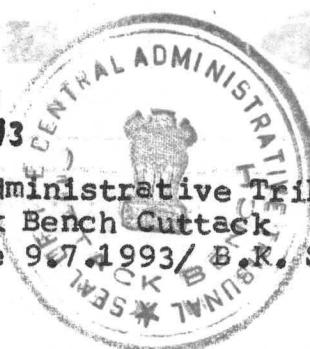
No cost.

I. S. Sahoo
 MEMBER (ADMINISTRATIVE)

09 JUL 93

VICE-CHAIRMAN

Central Administrative Tribunal
 Cuttack Bench Cuttack
 dated the 9.7.1993/ B.R. Sahoo



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 9.7.93