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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.315 OF 1995

Cuttack, this the 19th day of September, 1995

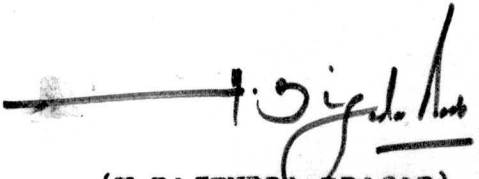
Giridhari Barik and others ... Applicants

Vrs.

Director-General of Security
and others ... Respondents.

(FOR INSTRUCTIONS)

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


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.315 OF 1995

Cuttack, this the 19th day of September, 1995

CORAM:

HON'BLE SHRI H.RAJENDRA PRASAD, MEMBER (ADMINISTRATIVE)

....

1. Giridhari Barik,
s/o late Jagabandhu Barik
2. Kulamani Mahapatra,
s/o Hadibandhu Mahapatra
3. B.Sahoo, s/o late Khetrabasi Sahoo

All are working as M.T.Cleaner at Aviation
Research Centre, Charbatia, District-Cuttack

..... APPLICANTS

By the Advocates

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M/s C.A.Rao,
S.K.Purohit,
S.K.Behera & P.K.Sahoo

-versus-

1. Director General of Security,
Cabinet Secretariat,
East Block V, R.K.Puram,
New Delhi-110 066.
2. Director, A.R.C.,
New Delhi, R.K.Puram,
New Delhi-110 066.
3. Deputy Director (Admn).,
A.R.C., Charbatia, Cuttack

... RESPONDENTS.

By the Advocate

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Shri Ashok Misra,
Senior Central Government
Standing Counsel.

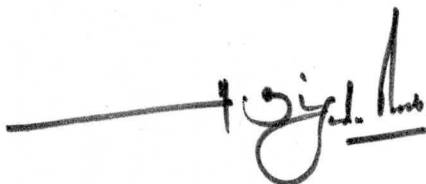
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O R D E R

H. RAJENDRA PRASAD, MEMBER (ADMN.) The applicants, Sarvashri Giridhari

Barik, Kulamani Mohapatra and B. Sahoo, are working as M.T. Cleaners at Aviation Research Centre, Charbatia. Shri Barik has been working at this Station since 30.4.1984, Shri Mohapatra from 8.8.1985, and Shri Sahoo from 31.3.1986. They have thus completed 11, 10 and 9 years, respectively, in their present appointments. It may also be mentioned that they had worked outside Charbatia for 2 years and 10 months, 2 years and 15 days, and 7 months and 10 days, respectively, prior to their present posting. These applicants have now been transferred and posted as Helpers in Aviation Research Centre, Sarsawa. They question the transfer on the following grounds:-

- (1) Helper is a promotional post for M.T. Cleaners;
- (2) ^{Their} Posting as Helpers amounts to change of service conditions;
- (3) Their consent for transfer was not obtained before ordering the posting;
- (4) They derive no financial benefit from being posted to Sarsawa; and
- (5) The transfer is in violation of circulars and the accepted policy-guidelines concerning rotational transfers issued.



2. The Respondents in their counter-affidavit submit that :

- (i) The impugned transfers are not rotational transfers in the first place;
- (ii) The guidelines referred to by the applicants are, therefore, not relevant in their case;
- (iii) Although they have been positioned against the posts of Helpers in their existing pay-scale, this is being done in view of the fact that the applicants are senior enough to be promoted to the grade of Helper;
- (iv) Such promotions are likely to be ordered, shortly; and
- (v) Three officials who were recruited in Charbatia but have been working outside the State in other Aviation Research Centres at Doom Dooma, Sarsawa, and Delhi have been brought back to Charbatia in places of the transferees.

3. This is a case of routine transfer of officials among the various Aviation Research Centres. The applicants have been working here for a considerable length of time. They have been positioned against the posts of Helpers to

— 1.54.1.1 —

which they are expected to be promoted shortly. The reasons given by them against the impugned transfer, viz., running of two separate establishments, dislocation in the studies of their children, and certain unspecified ailments of some members of their families are common to all cases when a person is transferred from an existing unit to another. There has been no allegation of mala fides on the part of any of the Respondents. In any case, these are the type of problems which are required to be examined by the authorities concerned, and cannot form the basis of any judicial intervention.

4. A Full Bench of this Tribunal in the case of Shri Kamlesh Trivedy v. Indian Council of Agricultural Research and another (OA No.770/1987, F.B.Judgments (CAT) 1986-89 page 80) cited by the learned counsel for the applicants, has itself laid down the following:

"In view of the above discussion, we hold that any order of transfer must (1) be in public interest and in the exigency of service on administrative grounds, (2) It must not be in colourable or mala fide exercise of power. (3) It should not be arbitrary. (4) It must be made by a competent authority in accordance with the rules and the instructions, if any, governing the transfer policy. But how far a transfer policy is mandatory, we express no opinion in this case. That must depend on the wording and the intendment of the instructions embodying the transfer policy. (5) The transfer itself must be ordered by a competent authority in bona fide exercise of the power. (6) It should not be a "fixed" transfer or for settling scores...."

— J. G. J. —

In the present case, the impugned transfer does not in any way violate these criteria.

5. I take note also of the statement that three officials belonging to the State but working elsewhere are being brought in the place of the applicants. This is not only unexceptionable but fair to such officials who have been clamouring for such posting. It would be also necessary to ensure that their interests, who are not before me in this case, are duly protected.

6. In view of the statement of the Respondents that the applicants, by virtue of their seniority, are on the verge of promotion, it is clear that three junior-most M.T.Cleaners cannot be so positioned for promotion, as contended by the applicants.

7. It is not also accepted that (a) the authorities were in any way expected or required to obtain the applicants' prior consent for their transfers, or (b) the impugned transfer results in change of their service conditions.

8. I do not find any valid material or justification for interfering with the impugned orders. It is, however, stressed that the applicants should receive proper consideration, in terms of the established policy concerning rotational transfers, when such rotational transfers become due in their cases. The application fails and is accordingly disposed of.


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

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Nayak, P.S.