CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH:CUTTACK

ORIGINAL APPLICATION NO.346 OF 1995

Cuttack, this the 17th day of August,1995

Shri Ishwar Chandra Rout & two others ... Applicants

-versus-

Union of India 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)
17 Aug 95

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 346 OF 1995

Cuttack, this the 17th day of August, 1995

CORAM:

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

1. Shri Ishwar Chandra Rout,
aged about 42 years,
son of Nandi Rout

2. Shri Bhagaban Palai,
aged about 48 years,
son of late Baisnaba Charan Palai

3. Shri Nila Madhab Pradhan,
aged about 42 years,
son of late Babu Pradhan

Petitioner Nos.1 and 3 are continuing as Khalasi and petitioner No.2 is continuing as Work Sarkar Grade III and the petitioners are now working in the Workcharged establishment under the Administrative Control of Assistant Engineer, Government of India, Central Water Commission, Subarnarekha Sub Division, Balasore

..... Applicants

By the Advocates - M/s A.K.Misra, S.B.Jena & J.Sengupta.

-versus-

1. Union of India represented through its Secretary, Ministry of Water Resources, Shakti Bhawan, New Delhi
2. The Chief Engineer, Mahanadi and Eastern Rivers, Central Water Commission, Bhubaneswar
3. Superintending Engineer, Hydrological Observations Circle, Central Water Commission, Bhubaneswar
4. Executive Engineer, Eastern Rivers Division, Central Water Commission, Plot No.A-13-14, Vanivihar, Bhubaneswar

5. Assistant Engineer,
Government of India,
Central Water Commission,
Subarnarekha Sub Division,
Balasore ... Respondents

By Advocates - Mr.Akhaya Kumar Misra,
Addl.Standing Counsel
(Central Government)

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ORDER

H.RAJENDRA PRASAD,MEMBER(ADMN.) In this application, the applicants, Sarvashri Ishwar Chandra Rout, Bhagaban Palai and Nila Madhab Pradhan, Khalasis in the Work-charge Establishment (in the Grade of Work Sarkar and Khalasi) were transferred as under:

	Name	Present Place of Posting.	Transferred to:
(i)	Shri Ishwar Chandra Rout	Chandanpur Site in Bhubaneswar Division	Kantamal Site under Burla Division.
(ii)	Shri Bhagaban Palai	N.H.5 Site under Bhubaneswar Division.	Jondhra Site Under Burla Division.
(iii)	Shri Nila Madhab Pradhan	Jaypur Site under Bhubaneswar Division.	Seorinarayan Site under Burla Division

The applicants contest the transfer on the following grounds:

(1) That they have been subjected to repeated transfers in the past between 1969 and 1995, with varying frequency in each case.

(2) That they are nowposted to places outside Orissa State which

would disrupt the education of their children.

(3) That normally Group 'C' and 'D' employees are not shifted from one station to another except under certain conditions or on the ground of definite administrative exigency.

(4) That in the present case no public interest is served by the impugned transfers and no administrative exigency exists or has arisen, or is likely to occur which might necessitate such precipitate transfers.

2. The Respondents in their counter-affidavit admit that as a matter of normal policy Group 'C' and 'D' employees are not posted out in usual circumstances. They state that the applicants are no longer temporary employees, as claimed by them, but permanently borne on the work-charge establishment. In this view of the matter, they are as liable to transfers within the Irrigation Circle as any other employees in the organisation. They clarify that S/Shri Ishwar Chandra Rout, Bhagaban Palai and Nila Madhab Pradhan have been working in their present posts from October 1987, July 1979 and November 1985, respectively, and that each one of them has thus stayed in his present post for a number of years. They also reveal that a

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certain administrative necessity has arisen which makes it not only advisable but necessary to shift the officials from their present posts.In this connection, certain confidential papers were produced by the Respondents for my perusal.

3. It was also explained that the operational jurisdiction of the Hydrological Observations Circle covers parts of Orissa, Andhra Pradesh, Bihar, Madhya Pradesh and West Bengal, whereas most of the work-charged personnel hail from the coastal areas of Orissa. This would sooner or later make it necessary for the Respondents to periodically shift the personnel in the interests of service. This would be required not merely for the smooth functioning at various work-sites but equally in order to accommodate the needs of certain other officials who have been working for long years in places outside the State of Orissa.It is stated that, in thepresent case, three officials who have been serving in some other States for long periods and who have been requesting for a posting in the State of Orissa, have been accommodated. Unless certain officials working in the State yield place to others coming into it from outside, there would be utter stagnation throughout the Circle.In such a situation a person serving at a place unsuitable to his needs outside the State would have to serve in distant places outside the State throughout his life in the same post.

4. The applicants have been working in the present

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stations for a number of years. They do not obviously have a prerogative to continue in their present posts for indefinitely long periods, although in the normal circumstances, the lower grade employees are not to be shifted from one station to another. However, the nature of work assigned to these applicants seems to be such that certain amount of shifting at reasonable intervals cannot perhaps be avoided altogether, or found fault with. The guideline regarding not moving Group 'D' officials from a post has to be balanced and viewed against the requirements of similarly-placed employees elsewhere. Any rigid and inflexible stance in this regard will result in hardship and injustice to the genuine needs of others similarly circumstanced personnel. Thus, insofar as the similarly circumstanced employees, who have been working for equally long period at places unsuitable to themselves are being brought in the places of the present applicants, equity demands that the proposed action of the Respondents should not be interfered with. Furthermore, on the basis of the confidential papers that were shown to me, it would not seem to be prudent to interfere with the impugned changes. It is to be expected that the case of the present applicants shall receive consideration at an appropriate time in future when they become due for such consideration, and that they would be brought back to places within Orissa, at a suitable juncture of time.

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5. With these observations, the Original Application is disposed of as having failed. The impugned orders are upheld. No costs.

(H.RAJENDRA PRASAD)
MEMBER(ADMINISTRATIVE)
17 Aug 95

A.Nayak,P.S.