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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CUTTACK BENCH

Original Application No. 727 of 1995

Cuttack this the 3rd day of April, 1996

Faguni Charan Barik

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Applicant(s)

Versus

Union of India & Others ...

Respondent(s)

(FOR INSTRUCTIONS)

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

*N. Sahu*  
(N. SAHU)

MEMBER (ADMINISTRATIVE)

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CENTRAL ADMINISTRATIVE TRIBUNAL, CUTTACK BENCH

Original Application No.727 of 1995

Cuttack this the 3rd day of April, 1996

C O R A M :

THE HONOURABLE MR.N. SAHU, MEMBER (ADMINISTRATIVE)

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Faguni Charan Barik, aged about  
40 years, S/o.Brundaban Barik  
working as E.D.T.M.P., attached  
to the R.M.S., Jajpur Road  
At/PO/Dist:Jajpur

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Applicant

By the Advocate:

M/s.A.K. Rao  
S.K.Ratha  
M.Sampat  
P.K.Sandha  
M.K.Mohanty-2

Versus

1. Union of India represented by  
the Secretary of Post,  
New Delhi
2. Chief Postmaster General,  
Bhubaneswar, At/PO:Bhubaneswar  
Dist:Khurda
3. Superintendent of Post Offices  
Cuttack North Division, Cuttack  
At/PO/Dist:Cuttack
4. Asstt.Superintendent of Post  
Offices, Telecommunications,  
Jajpur Sub-Division  
At/PO/Dist:Jajpur

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Respondents

By the Advocate:

Mr.Akhaya Kumar Mishra  
Additional Standing Counsel  
(Central)

...

O R D E R

MR.N. SAHU, MEMBER (ADMN) : Heard Shri A.K.Rao, learned counsel

for the applicant and Shri Akhaya Kumar Mishra, learned  
Additional Standing Counsel (Central) for the respondents.

2. Shri Faguni Charan Barik, the applicant was

appointed "temporarily as E.D.M.C. for escorting the mail in S.S.Buses between Jajpur Road R.M.S. and Jajpur with effect from 4.2.1974 till restoration of normal exchange of mails by S.T.S. employees". Shri Barik has been working <sup>in</sup> this capacity for more than two decades. By Annexure-1 dated 21.10.1995, <sup>which is under challenge</sup> the applicant is attached to Jajpur Head Post Office at the disposal of Postmaster, Jajpur Head Post Office. He is supposed to utilise his service in the Head Post Office.

3. The undisputed fact is that the applicant belongs to Jajpur Road and is staying in Jajpur Road. That much is clear from his representation vide Annexure-2. The applicant stated that his duties were to carry mail from Jajpur Road to Jajpur Town and to bring the mail from Jajpur Town Head Office to Jajpur Road R.M.S. since last 22 years. He is paid a small salary of Rs.1050/- and he manages his family members with great difficulty. He prayed for cancellation of the transfer which was not acceded to and hence this application.

4. The learned counsel for the applicant Shri A.K. Rao, submits that Rule 20 categorically prohibits transfers of E.D. Agents. "E.D. Agents are not liable or are not entitled to transfer from one post to another."

5. In the counter-affidavit a case is made that there were persistent reports from the Postmaster, Jajpur Head Post Office to the Superintendent of

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Post Offices, Cuttack, about the irregularities in receipt of mails from Jajpur-road R.M.S. to Jajpur Head Post Office escorted by the applicant. The mails are received late causing dislocation of work. It is, therefore, stated that the applicant and Shri D.C. Jena working in the same headquarters zone were shifted in the public interest. It is stated to be not a case of transfer nor a change of headquarters. It is also mentioned that one Shri D.C. Jena accepted assignment and is working in the Head Post Office, Jajpur. The performance of Shri F.C. Barik was considered to be unsatisfactory because of delay in conveying the mails. There was also an allegation that due to his negligence there was a need for his displacement.

6. I have carefully considered the submissions. By Annexure-3 the Superintendent of Post Offices, himself stated that the request for cancellation of transfer was not accepted <sup>a</sup> in the public interest. He also admits that this is a case of transfer. The E.D. Agents are not regular employees. They are governed by the terms of an Agency. If the respondents are not satisfied with the services of the applicant they are at liberty to follow the procedure laid down in the rules and take suitable remedial action to correct an erring agent. They may also take necessary disciplinary action or punitive action, if so warranted. Transfer itself

is expressly prohibited by Rule 20 and there is a reason for this. As mentioned above, an E.D Agent is not a Government servant liable to transfer from one place to another. He is paid a small salary which he accepts because it supplements his other income, makes him free to pursue other vocations and there are no separate overheads. His security lies in the fact that he stays at one place without disturbance. In this view of the matter, after 22 years, the respondents have transferred him because of his alleged negligence or alleged inefficiency which are allegations to be enquired into. Separate action may be taken if those allegations are found to be true. But the transfer of the applicant is not proper in view of the prohibition in Rule-20 and also because the applicant as an Agent is not a regular government servant. The order at Annexure-1 is set aside and the applicant shall continue to discharge the job of E.D.M.C. for escorting the mail in S.S.Bus between Jajpur Road R.M.S. to Jajpur Head Post Office and back as he was doing earlier under the appointment order dated 1.5.1974.

The application is allowed. No costs.

*N. SAHU*  
(N. SAHU)

MEMBER (ADMINISTRATIVE)

B.K.Sahoo//