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CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 114 OF 1996

Cuttack, this the 16th day of March, 2001

Ghanashyam Purty and others.... Applicants

Vrs.

Central Board of Trustees and others... Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? Yes.

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

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(G.NARASIMHAM)

MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
16.3.2001
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 114 OF 1996

Cuttack, this the 16th day of March, 2001

CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

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1. Ghanashyam Purty, aged 37 years, son of late Sahiram Pruty, resident of village Tingiria, P.O-Godpalasan, P.S-Joshipur, District-Mayurbhanj, at present working as Upper Division Clerk in the office of Regional Provident FundCommissioner,Orissa and General Secretary, EPF SC/ST Staff Welfare Association, Office of Regional Provident Fund Commissioner,orissa,Janpath, Unit-9, Bhubaneswar-7, District-Khurda.
2. Kanhu Charan Das, aged 44 years, son of late Puna Das, resident of village/PO-Chanar Pada, PS-Nimapara, District-Puri, at present working as Head Clerk.
3. Jitendra Kumar Jena, aged 38 years, son of late Baidyanath Jena, resident of village Sain, P.O-Badar Nuagaon, District-Balasore, at present working as Head Clerk.
4. Sarat Kumar Behera, aged 41 years, son of Shri Dasarathi Behera, resident of village Barko, P.O-Sunaposhi, District-Keonjhar, at present working as Head Clerk.
5. Keshab Chandra Sethi, aged 41 years, son of Krushna Chandra Sethi, resident of vill-Kaitha, P.O-Pingal, P.S-Sukinda, District-Jajpur, at present working as Head Clerk.
(All the above applicants are working in the office of Regional Provident Fund Commissioner,Orissa, Janpath, Unit-9, Bhubaneswar-7, District-Khurda)...

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Applicants

Advocates for applicants-M/s K.C.Kanungo
B.Rout

S.Jam.
Vrs.

1. Central Board of Trustees, represented by Central Provident Fund Commissioner, 2nd and 3rd Floors, Business Park No.25, Sivaji Marg, New Delhi-15.
2. Secretary, Ministry of Labour, Shrama Shakti Bhawan, Sansad marg, New Delhi-1.

3. Regional Provident Fund Commissioner, Orissa,
Bhavishyanidhi Bhawan, Janpath, Unit-9, Bhubaneswar-7,
District-Khurda.

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Respondents

Advocate for respondents- Mr. Ashok Mohanty

O R D E R

SOMNATH SQM, VICE-CHAIRMAN

In this O.A., the five applicants, who are Head Clerks belonging to SC/ST in the office of Regional Provident Fund Commissioner, Orissa, Bhubaneswar, have prayed for quashing the policy of general rotational transfer of SC/ST Head Clerks empanelled and to be empanelled in the third cycle on the ground of being hit by constitutional directives and judicial orders. The second prayer is to direct the Regional Provident Fund Commissioner, Orissa, Bhubaneswar (respondent no.3) to call for volunteers from amongst SC/ST Head Clerks and not to empanel them in a routine manner. Before proceeding further it is necessary to note that the applicants had earlier filed OA No. 738 of 1995, which was disposed of in order dated 15.12.1995 (Annexure-4). In the earlier OA they had challenged the panel of Head Clerks drawn up for rotational transfer from Bhubaneswar to Sub-Regional Office, Rourkala. The Tribunal in their order dated 15.12.1995 disposed of the OA with a direction to Central Provident Fund Commissioner (respondent no.1 in that OA) to dispose of the representation within six months. Accordingly, the Central Provident Fund Commissioner in an elaborate order dated 23.1.1996 considered and rejected the representation. Being aggrieved with this, the applicants have come up in this petition with the prayer referred to earlier.

S. J. Mohanty

2. The respondents have filed counter opposing the prayer of the applicant. For the present purpose it is not necessary to record all the averments made by the parties in their pleadings. We have heard Shri K.C.Kanungo, the learned counsel for the petitioners and Shri Ashok Mohanty, the learned Senior Panel Counsel for the respondents and have also perused the records.

3. The admitted position is that the office of respondent no.3 has opened a Sub-regional Office at Rourkela with a view to extend social security services at the doorstep of the subscribers there and there are not many volunteers to go to Rourkela on transfer. In view of this, the rotational transfer policy guidelines have been drawn up and issued. Under these guidelines, in order to supervise the work in Sub-regional Office, transfer of Head Clerks posted in the Region to Rourkela became inevitable. Taking into consideration the hardship which may be caused to Head Clerks on transfer on permanent basis, transfer policy has been drawn up regulating transfer of Head Clerks for a period of one year on a rotational basis. It further appears that such rotational transfer is done of all Head Clerks in order of seniority. It further appears that once all the Head Clerks have done their tenure in Rourkela, one cycle is completed and a second cycle of such rotational transfer is taken up. The respondents have stated and the applicants have not denied by filing any rejoinder that the second cycle of transfer is already over and all the applicants have been transferred to Rourkela and done their tenure there while the first and second cycles of rotational transfer were in operation.

S. J. Joshi

4. The grievance of the petitioners in the present petition is that they have set up a claim that as they belong to SC/ST they can be transferred from their original place of posting only under exceptional circumstances and that too only to places near their home town or home district. In support of his contention, the learned counsel for the petitioners has relied on the decision in the case of B.S.Verma v. Union of India, (1994) 26 ATC 313, in which such a claim was accepted by Jodhpur Bench of the Tribunal. But the decision in B.S.Verma's case(supra) came up for consideration and was overruled by Full Bench of the Tribunal at Hyderabad in the case of C.H.Roosevelt v. General Manager, S.E.Railway, reported in (1997) 35 ATC 19 (FB). The Full Bench in their decision have considered the relevant circulars and have held that these circulars are only guidelines and cannot be taken to be mandatory and on the basis of such circulars a person cannot set up a legally enforceable right. This view has also been taken by the Hon'ble Supreme Court in the case of L.N.Mehar v. Unin of India, 1997 SCC (L&S) 643. In view of the above well settled position of law, the claim of the applicants that they should be kept out from the scheme of rotational transfer on the ground that they belong to SC/ST is held to be without any merit and is rejected.

5. In the result, the Original Application is rejected. No costs.

(G.NARASIMHAM)

MEMBER (JUDICIAL)

SOMNATH SOM
(SOMNATH SOM)

16.3.2001
VICE-CHAIRMAN