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V  
CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 172 OF 1996

Cuttack, this the 5<sup>th</sup> day of January, 1998

Dillip Kishore Mohanty .... Applicant

Vrs.

Union of India 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 NO Central Administrative Tribunal or not?

Somnath Som  
(SOMNATH SOM)  
VICE-CHAIRMAN  
1.98

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CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 172 OF 1996

Cuttack, this the 5th day of January, 1998

CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN

....

Dillip Kishore Mohanty, aged about 34 years,  
son of Sri Braja Kishore Mohanty,  
working as Scientific/Technical Assistant 'B',  
(Computer Operator)  
National Informatic Centre,  
Unit-IV, Sachivalaya Marg, Bhubaneswar,  
District-Khurda

.... Applicant

By the Advocate - Mr. B. Das Mohapatra.

Vrs.

1. Union of India, represented by  
the Director General,  
National Informatic Centre,  
Under Planning Commission,  
Block-A-CGO Complex, Lodhi Road,  
New Delhi.
2. The Senior Technical Director,  
National Informatic Centre (ER),  
Unit-IV, Sachivalaya Marg,  
Bhubaneswar-751 001,  
Dist. Khurda.
3. The Technical Director & Head of Office,  
National Informatic Centre (ER),  
Unit-IV, Sachivalaya Marg,  
Bhubaneswar-751 001, Dist. Khurda ... Respondents

By the Advocate - Mr. Ashok Mohanty,  
Sr. C. G. Standing Counsel.

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S. 1.98

ORDER

SOMNATH SOM, VICE-CHAIRMAN In this application under Section 19 of Administrative Tribunals Act, 1985, the petitioner has prayed for quashing the order of his transfer dated 9.2.1996 (Annexure-5) from the post of Computer Operator at Bhubaneswar to the post of District Informatics Assistant at Dhenkanal. There is also a prayer for allowing the applicant to continue as Computer Operator at N.I.C., Bhubaneswar.

2. Facts of this case, according to the applicant, are that pursuant to an advertisement dated 26.9.1987 (Annexure-1) the applicant applied for the post of Computer Operator and was duly selected. He was appointed in order dated 8.9.1988 (Annexure-2) as Computer Operator. This was an appointment order issued to him. Besides this, there was a common appointment order dated 3.11.1988 (Annexure-3) where 10 persons including the applicant were appointed as Scientific/Technical Assistant 'A' (Computer Operator). Vide order dated 25.10.1990, 19 persons who were Scientific/Technical Assistant Grade 'A' (Programme Assistant/Computer Operator/District Informatics Assistant) were declared to have completed their probation satisfactorily on the dates noted against each. The applicant having joined on 11.10.1988, his probation was declared as satisfactorily concluded on 10.10.1989. The applicant's case is that subsequently he was given promotion to the next higher grade, Scientific/Technical Assistant, Grade 'B' on 1. 11.1995 though some persons who had joined along with the applicant were given

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promotion to the next higher grade, i.e. the post of Scientific Officer. The applicant has further stated that respondent no.2 harassed him by deputing him to work at Cuttack. He was also not given permissible T.A. and D.A. on flimsy grounds. Ultimately in the impugned order at Annexure-5, he was transferred to N.I.C., District Informatic Centre, Dhenkanal, as District Informatics Assistant. Case of the applicant is that by this transfer, nature of his job has been changed and this has been done without obtaining his consent. It is also submitted by the applicant that his wife is a Government servant and has been posted at Cuttack. His father is ailing at his old age and schooling of his only daughter is in mid-session. On the above grounds, the applicant has prayed for quashing the transfer order.

3. Respondents in their counter have submitted that the post of Computer Operator is in the cadre of Scientific/Technical Assistant, Grade 'A' and from that post, promotion is to the post of Scientific/Technical Assistant Grade 'B'.

Respondents have denied the allegation that the applicant has been harassed in any way. Their case is that designations of Programme Assistant, Computer Operator and District Informatics Assistant are all functional designations. Cadre for all these posts is one, i.e. Scientific/Technical Assistant in Grade 'A' or Grade 'B'. The applicant was all along treated as Scientific/Technical Assistant Grade 'A' and has been subsequently promoted to the post of Scientific/Technical Assistant Grade 'B' and has

Jammalpur  
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been transferred to Dhenkanal to work as District Informatics Assistant. Since that post is in the same cadre, the respondents have denied that any illegality has been committed by posting the applicant as District Informatics Assistant at Dhenkanal. Further, it has been submitted by the respondents that the Main Frame Computer has been closed down since October 1995 and there is no requirement of Computer operation at N.I.C., Bhubaneswar. That is how he has been transferred as District Informatics Assistant at N.I.C., Dhenkanal. It is further submitted by the respondents that by this transfer, the applicant's service condition, seniority, chances of promotion, etc., have not been affected in any way. The respondents have also stated that the applicant's wife works in another Department and there being no work for Computer Operator at Bhubaneswar, it is not possible to retain him at Bhubaneswar. On the above grounds, the respondents have opposed the prayers of the applicant.

*Opinion of Smt. S. 1.92.*

4. I have heard the learned lawyer for the applicants and the learned Senior Standing Counsel appearing on behalf of the respondents and have also perused the records.

5. It has been submitted by the learned lawyer for the applicant that the job description of Programme Assistant and Computer Operator is different as it appears from the advertisement dated 29.1.2.1995 of N.I.C. at Annexure-6. I have

carefully gone through the job description for the post of Programme Assistant and Computer Operator and I find that there is a large degree of congruence between the duties of Programme Assistant and Computer Operator. For Programme Assistant, job description is collection and processing of information, NICNET operation, assistance in programming, analysis and MIS support, coordination of users and other support functions. For the Computer Operator, job description is processing of information, computer operation, NICNET operation, assistance in programming, analysis and MIS support, coordination of users and other support functions. A Computer Operator is also required to work in any of the three shifts, as may be decided by the N.I.C. from time to time. From the job description of the posts of Programme Assistant and Computer Operator, it is clear that the work of these two posts is very largely similar. At Annexure-7 is a notice of advertisement for the posts of District Informatics Officer which is a higher category of post than District Informatics Assistant and therefore, it is not necessary to refer to Annexure-7. From the annexures filed by the applicant himself, it appears that even though in the offer of appointment (Annexure-2) issued to him, the post of Computer Operator was offered to him, in the actual appointment order issued on 3.11.1988 (Annexure-3) the applicant along with 9 others were appointed as Scientific/Technical Assistants 'A' (Computer Operator). From this, it is clear that Computer Operators are actually Scientific/Technical Assistant 'A'.

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In the order dated 25.10.1990 regarding successful completion of probation of 19 persons including the applicant, they have been described as Scientific/Technical Assistant Grade 'A' (Programme Assistant/Computer Operator/District Informatics Assistant). From this also, it is clear that the posts of Programme Assistant, Computer Operator and District Informatics Assistant are all Scientific/Technical Assistants Grade 'A'. Along with their counter the respondents have enclosed an order dated 1.11.1995 in which the applicant along with three others, who have been described as Scientific/Technical Assistants Grade 'A', have been appointed to officiate as Scientific/Technical Assistant Grade 'B' in the higher scale. Vide Annexure-6 the applicant has joined as Scientific/Technical Assistant Grade 'B' on 18.11.1995. It is, therefore, not possible for him to urge that he is a Computer Operator only. It is clear that his basic grade is Scientific/Technical Assistant Grade 'A' from which he has been appointed to officiate in Scientific/Technical Assistant Grade 'B'. Various other documents referred to by me earlier also show that the posts of Programme Assistant, Computer Operator and District Informatics Assistant are all in Scientific/Technical Assistant Grade 'A' or Grade 'B'. In view of this, it cannot be said that the respondents have committed any illegality by transferring him to N.I.C., Dhenkanal, as Scientific/Technical Assistant Grade 'B' and requiring him to function as District Informatics Assistant. It is also to be

*Committtee  
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noted that, according to the respondents, with the closing down of the Main Frame Computer at Bhubaneswar from October 1995 there is no work for Computer Operators at Bhubaneswar. This is also one reason for transferring him to Dhenkanal to work as District Informatics Assistant. The applicant is in a transferable job where transfer is an incidence of service. He has remained at Bhubaneswar from 1988 and he cannot make a grievance about his transfer to Dhenkanal. As regards his family difficulties, these are matters to be considered by the departmental hierarchy. The applicant, if he is so advised, should make a representation to the departmental authorities placing before them his personal difficulties in working at Dhenkanal. It is to be noted that as at the time of admission of this application, no stay was granted, the applicant has in the meantime joined at Dhenkanal and is presumably working there. In view of the above, I hold that no case has been made out for quashing the impugned order at Annexure-5.

6. In the result, therefore, the application is held to be without any merit and the same is rejected, but, under the circumstances, without any order as to costs.

Somnath Som  
(SOMNATH SOM)  
VICE-CHAIRMAN  
11/1998