

6

(8)

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 429 OF 1996  
Cuttack this the 5<sup>th</sup> day of October, 1999

Raj Kishor Sahoo

Applicant(s)

-Versus-

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

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

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
*5.10.99*

*G. Narasimham*  
(G. NARASIMHAM)  
MEMBER (JUDICIAL)

7

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK

(7)

ORIGINAL APPLICATION NO. 429 OF 1996  
Cuttack this the 5<sup>th</sup> day of October, 1999

CORAM:

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

...

Raj Kishor Sahoo  
P.A. (S.B.C.O.)  
Aska H.O., Aska  
District: Ganjam

...

Applicant

By the Advocates : Mr.D.P.Dhalasamant

-Versus-

1. Union of India represented through  
Chief Postmaster General,  
Orissa Circle, Bhubaneswar-751001
2. Chief Post Master General  
Orissa Circle,  
Bhubaneswar-751001
3. Director of Postal Services,  
Office of the Chief Post Master General,  
Orissa Circle, Bhubaneswar  
Pin 751001

...

Respondents

By the Advocates : Mr.A.K.Bose  
Sr.Standing Counsel  
(Central)

...

ORDER

MR.G.NARASIMHAM, MEMBER(JUDICIAL): Applicant, Raj Kishor Sahoo, who was serving as L.D.C. S.B.C.O., Nayagarh Head Office in the Postal Department in the year 1989, was transferred to Phulbani by order dated 19.4.1991 and again from Phulbani to Aska Head Office by order dated 19.5.1995. In this application he seeks retransfer to his parent Region, i.e. Bhubaneswar Region, on the ground that as per D.G.(Posts) letter dated 5.11.1989, regional transfer of the Circle cadre staff will have to be made by the <sup>Chief</sup> Post Master General and that too on the representation/reference/recommendation by the concerned P.M.G. of the Region (Annexure-1).

There is no dispute that Nayagarh comes under Bhubaneswar Postal Region. Phulbani and Aska are under different Postal Regions.

According to applicant, Res.3, viz., Director of Postal Services, Office of the C.P.M.G., Orissa Circle, who issued the transfer orders under Annexures- 2 and 3, has no jurisdiction to issue such transfer orders, because as per the circular dated 5.11.1989, it is only the Chief Post Master General, who can issue such transfer orders on the representation/reference/recommendation by the concerned Post Master General of the Region.

2. The Department in their counter opposing the prayer of the applicant submit that S.B.C.O. is a Circle Cadre and an employee in that cadre is liable to be transferred at any place inside the Circle. Applicant's transfer to Phulbani was made in the year 1991, by which time the Circle dated 5.11.1989 had not come into force

9

and that circular had come into force in the Orissa Circle with effect from 11.11.1991 as is evident from Annexure-1. More over, the transfer order of the year 1991 is not opened for challenge in the year 1996 through this application as being barred by time. Transfer orders have been issued from the Office of the C.P.M.G., Orissa Circle, who is competent to order such transfers within the Orissa Circle.

3. We have heard Shri D.P.Dhalasamant, learned counsel for the applicant and Shri A.K.Bose, learned Sr.Standing Counsel appearing for the respondents. Also perused the records.

There is no prayer for quashing the orders of transfer. The main prayer is for applicant's retransfer to Headquarters region. Law is well settled that transfer is an incidence of service and it is entirely for the employer to decide when, where and <sup>at</sup> what point of time a public servant should be transferred. On this ground alone, this prayer can be disallowed.

In fact in the counter the Department made it clear in letter dated 18.9.1995 (Annexure-R/1) that request of the applicant for transfer to Bhubaneswar Region would be considered only after a period of two years.

This apart, we do not see any legal infirmity in the orders of transfers as contended by the learned counsel for the applicant. The relevant circular under Annexure-1 filed by the applicant is a letter addressed to Post Master Generals, Sambalpur/Bhubaneswar Region from the Office of the Chief Post Master General, Orissa Circle, Bhubaneswar on 11.11.1991 by refering the

10

D.G.Posts Circular dated 5.11.1989 wherein it has been made clear that tenure transfer of the staff of various cadres (not the ~~circle~~ cadre) within the region would hereinafter be made by the Post Master General of the respective region and the regional transfer of the circular cadre would however continue to be made by the Chief Post Master General on the representations/references/recommendations by the concerned Post Master General. Thus it is clear that this guideline has come into force with effect from 11.11.1991 in respect of transfers of the staff other than the Circle cadre staff. Regarding circle cadre staff, the Chief Post Master General has the power to transfer within the circle.

Applicant is a circle cadre staff. Orders of transfer to Phulbani and Aska were issued from the Office of the C.P.M.G., Orissa Circle under Annexures-2 and 3.

In view of our discussions held above, the application fails and the same is therefore, dismissed, but without any order as to costs.

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
5-10-99

B.K.SAHOO

5-10-99  
(G.NARASIMHAM)  
MEMBER(JUDICIAL)