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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 454 OF 1996

Cuttack, this the 21st day of January, 1997

Somanath Mohapatra

Applicant

Vrs.

Union of India & others

Respondents

(FOR INSTRUCTIONS)

- 1) Whether it be referred to the Reporters or not? M
- 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: CUTTACK.

ORIGINAL APPLICATION NO. 454 OF 1996

Cuttack, this the 21st day of January, 1997

CORAM:

HONOURABLE SHRI N.SAHU, MEMBER(ADMINISTRATIVE).

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Somanath Mohapatra,
aged 38 years,
son of late Gandharba Mohapatra,
Village-Madhusudanpur,
P.O/P.S-Baranga,
District-Cuttack,
at present Postal Assistant(Under Suspension),
Office of the Postal Printing Press,
Mancheswar Industrial Estate,
Bhubaneswar-10,
District-Khurda

.... Applicant

-versus-

1. Union of India, represented by
the Secretary to Government of India,
Department of Post,
Dak Bhawan, New Delhi-1.
2. Chief Post Master General,
Orissa Circle,
Bhubaneswar,
P.S-Kharavelnagar,
Dist. Khurda,
Pin-751 001.
3. Director of Postal Services (Headquarter),
Office of the Chief Post Master General,
Orissa Circle, P.S-Kharavelnagar,
Bhubaneswar-751 001.
4. Manager, Postal Printing Press, Bhubaneswar,
Mancheswar Industrial Estate,
P.S-Mancheswar,
Bhubaneswar-10, Dist. Khurda

.... Respondents.

Advocates for Applicant - M/s K.C.Kanungo,
B.D.Rout & S.Behera.

Advocate for Respondents - Mr.U.B.Mohapatra

O R D E R

HU, MEMBER (ADMINISTRATIVE) The applicant was appointed in the post of Sorting Assistant in the erstwhile Railway Mail Service 'K' Division, Jharsuguda, under reserved quota of handicapped personnel with effect from 1.8.1982. He was declared a surplus staff and was absorbed as L.D.C. in the Circle Office of Chief Post Master General with effect from 1.8.1986 and thereafter he was deputed to the office of Respondent No.4, the Manager, Postal Printing Press, on 2.8.1991. He was aggrieved by the order of suspension passed by Respondent No.4 and the order of conditional revocation of suspension linked with transfer. Vide Annexure-1, an order in M.A.No. 156/96, Respondent No.2 was directed to consider the posting of the applicant, a permanently handicapped person to any place nearabout the home town of the applicant. This was turned down. On 17.5.1996 while quashing the conditional revocation of suspension, this Tribunal by an order dated 17.5.1996, directed the Respondents to consider a posting in accordance with the instructions of the Ministry of Personnel. Pursuant to the direction of this Tribunal, the applicant was transferred and posted to R.O., Berhampur. Thus the grievance of the applicant is against the order of transfer to Berhampur. He also seeks directions for modification of the order of revocation of suspension to be effective from 23.8.1995, for payment of arrear pay and allowance after deducting subsistence allowance at the earliest, and for a posting near his native place.

2. The applicant continued in the Circle Office, Bhubaneswar, from 1987 to August 1991. From August, 1991 till June 1996 he was in the Postal Printing Press, Bhubaneswar. Because he was accused of sabotage in a sensitive industrial unit like Postal Printing Press, his continuance after completing a tenure at such place was not considered desirable. Taking all the facts into consideration, the applicant was transferred to Berhampur which is a place nearer to his home town than Sambalpur and well connected.

3. I do not consider it appropriate to interfere with this order of transfer. The applicant had spent nine years at Bhubaneswar. It is true he is a handicapped person and belongs to the reserved class. It is also true he is a low paid employee. The Respondents could have considered his case for a transfer to any office nearabout Bhubaneswar. It is not for Courts to direct a particular place of posting. The law is well settled that authorities can order a suitable posting considering the individual difficulties and the exigencies of service. The arguments of the learned Additional Standing Counsel for the Respondents are correct to the extent that Berhampur is a much nearer place to the applicant's home town than Sambalpur. He can more easily reach his home town. The applicant should, after a certain passage of time, approach the authorities if he still experiences any difficulty in continuing at Berhampur. He being a handicapped person and low paid employee, his grievances, if they are genuine, shall be sympathetically

considered by the authorities. It is not appropriate for a Court to give any positive suggestion indicating a place of transfer. But then the first condition is that the applicant should obey the order of transfer, join at the new place and work for a certain acceptable period before he can further ask for a change to a place nearer to his home town. As it is I do not find any merit in this contention.

4. With regard to a direction for treating the order of revocation as deemed to be effective from 23.8.1995, I do not think it is proper to entertain such a plea at this stage. The order of this Court in OA No.657/95 is to declare the revocation order coupled with transfer as bad in law. This Court found substance in the contention of the applicant and treated the transfer and the revocation order as bad in law. Subsequently the suspension was revoked and in accordance with the direction of the Court, the applicant's transfer was changed from Sambalpur to Berhampur. In any suspension the revocation cannot be retrospective. That would necessitate going into the merits of suspension. There is no scope for such consideration in this O.A. I do not see what the applicant will gain by a declaration that the suspension is revoked from a particular date. There is no merit in this claim.

5. With regard to the arrear of pay and allowances

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after deducting the subsistence allowance, the Respondents are hereby directed to pass an appropriate order in this behalf in accordance with the Rules within a period of two months from the date of receipt of a copy of this order.

6. No other grievance survives and the O.A. is disposed of as above.

..... 21.1.97
(N.SAHU)
MEMBER (ADMINISTRATIVE)

Nayak, P.S.