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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 539 OF 1996

Cuttack, this the 7th day of January, 1998

Rajendra Prasad Nirverya Applicant

Vrs.

Union of India and another 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.

Somnath Som,
(SOMNATH SOM) 7.1.98
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 539 OF 1996

Cuttack, this the 7th day of January, 1998

CORAM:

HONOURABLE SHRI SOMNATH SOM, VICE-CHAIRMAN

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Rajendra Prasad Nirverya, 37 years,
son of Poovanchand, at present working as U.D.C.,
GE(P)(I), Bolangir, Permanent address
Qr.No.8 B.C.C.Line, G.E.(MES) Kota,
Rajasthan-324 001

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Applicant

By the Advocates

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M/s S.B.Jena, S.K.Dash,
P.K.Misra & S.Behere.

Vrs.

1) Union of India through
Secretary, Ministry of Defence,
New Delhi.

2) Chief Engineer, Southern Command,
Engineer Br., Pune: 411 001. ...

Respondents

By the Advocate

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Mr. Ashok Mohanty,
Sr.C.G.Standing Counsel

O R D E R

*Somnath Som
7.1.98*

SOMNATH SOM, VICE-CHAIRMAN

In this application under Section 19 of Administrative

Tribunals Act, 1985, the petitioner has prayed for quashing the order dated 5.7.1996 (Annexure-3), so far as the applicant is concerned, and for a direction to the respondents to post the petitioner as per the option given by him.

2. According to the applicant, he is working as U.D.C. under the respondents at Bolangir from 22.6.1994. In December 1995 options were called for from the staff including the applicant about their posting and the petitioner gave his option for Kota, Bharatpur and Mount Abu in that order. It is admitted by both sides that the applicant joined at Bolangir on 22.6.1994 and after completion of two years of service, he has become due to be transferred to a choice station in 1995. According to the posting policy, those persons who have completed their tenure are to be repatriated to one of their choice stations. If the vacancy is not available in any of the choice stations, the seniormost longest stayee from one of the choice stations will have to be taken out to accommodate the person who has given his option. For the purpose of determining the longest stayee, the three choice stations should be clubbed together. The applicant's case is that even though his first choice station was Kota and his second preference was Bharatpur, the respondents have posted him to Mount Abu which was his third choice. His representation for getting posted at Kota has been rejected in the impugned order dated 5.7.1996. It has been further stated that out of 53 persons who had given their choice, 51 have been posted according to their first choice. Another man has been posted to some other place due to non-availability of vacancy and the petitioner has been singled out and posted at the place of his third choice even though vacancies are available at Kota.

*Submission form
7.1.98*

3. Respondents in their counter have admitted the facts as above regarding choice given by the applicant and

the transfer policy. They have submitted that at Bharatpur there are three surplus U.D.Cs. and therefore, it was not possible to post the applicant at Bharatpur. At Kota and Mount Abu, two posts of U.D.C. are lying vacant, but the respondents did not deliberately post the applicant at Kota. Earlier the applicant had served at Kota from 21.8.1980 to 15.6.1994. During his stay at Kota, certain allegations were received against him and in view of those allegations, the respondents have not posted him at Kota but have posted the applicant according to his third choice at Mount Abu.

4. The applicant has filed a rejoinder in which he has denied the allegations which were brought against him when he was at Kota. For the purpose of adjudicating this application it is not necessary to go into the nature of the allegations. The applicant has further stated that the allegations came many years ago and those could have been enquired into and if necessary, action should have been taken against him if the allegations were correct. But instead of that, on the un-substantiated allegations, he has been denied his first choice of posting.

*Comm'n form
7.1.98*

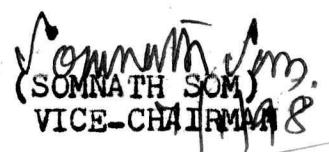
5. I have heard the learned lawyer for the applicant and the learned Senior Standing Counsel appearing on behalf of the respondents and have also perused the records.

6. The first point to be noted in this case is that it has been nowhere laid down that the persons exercising choice must be posted at the place of their first choice.

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Respondents in paragraph 3 of the counter have stated that a number of employees have been posted at places of their second and third choice. Learned lawyer for the applicant has not brought on record any order or circular which lays down that a person must be posted at the place of his first choice. In the absence of this, it is seen that the applicant has got a posting according to his choice even though it is a place of his third choice. The applicant is in a transferable job and is liable to be posted anywhere in India. He has got a posting according to his choice, though it is the place of his third choice. At the place of his second choice, there are surplus U.D.Cs. and he cannot be posted there. As regards the place of his first choice, i.e., Kota, the respondents are within their rights not to post him at the place of his first choice on administrative considerations and no fault can be found with that. In view of the above, I hold that the applicant has not been able to make out a case for quashing the order at Annexure-5.

7. In the result, therefore, the application fails and is rejected, but without any order as to costs. The stay order which was granted on the date of admission on 26.7.1996 and which was made absolute till the final disposal of the application in order dated 12.9.1996 also stands vacated.


(SOMNATH SOM)
VICE-CHAIRMAN