

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.269 OF 1998
Cuttack this the 27th day of August, 1998

PRONOUNCED IN THE OPEN COURT

Chintamani Sahu

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*

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
27.8.98

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.269 OF 1998
Cuttack this the 27th day of August, 1998

CORAM:

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

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Sri Chintamani Sahu,
aged about 32 years,
S/o.Jaladhal Sahu
At/Po:Murdanga-Mahulpal 'B'
Via:Bhuban, Dist:Dhenkanal -
at present working as Caneman,
Office of the Asstt.Garrison Engineer
B/R-II(Building & Roads)
JM.E.S., Det, Bhubaneswar
C/o.120 Infantry Battalion
Territorial Army, Bhubaneswar
Dist:Khurda

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Applicant

By the Advocates:

Mr.A.K. Das

-Versus-

1. Union of India represented through its Secretary, Deptt. of Defence
New Delhi
2. Engineer-in-Chief, Army Headquarters
Kashmir House, New Delhi
3. Commanding Works Engineer
Dipatoli, Ranchi, State-Bihar
4. Garrison Engineer, Gopalpur-on-Sea
P.O.Golabandha, Dist:Ganjam(Orissa)
5. Asstt.Garrison Engineer
B/R-II(Building & Roads-II)
MES, Det, Bhubaneswar
C/o.120 Infantry Battalion
Territorial Army, Bhubaneswar,
Dist:Khurda

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By the Advocate:

Respondents

Mr.Ashok Mohanty
Sr.Standing
Counsel(Central)

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ORDER

MR. SOMNATH SOM, VICE-CHAIRMAN: In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for quashing the order dated 13.5.1998 transferring him from Bhubaneswar to Bihta in Bihar on administrative ground. There is also a prayer for a direction to respondents to allow the applicant being a physically handicapped person to continue in his present place of posting in Bhubaneswar. On the date of admission of this O.A. on 18.5.1998, the transfer order dated 13.5.1998 was stayed for a period of 14 days and the same interim order has been continuing from time to time till to-day. Learned counsel for the petitioner has filed rejoinder with copy to learned Senior Standing Counsel Shri Ashok Mohanty appearing on behalf of the respondents.

2. The facts of this case, according to petitioner are that he is a physically handicapped person and as a handicapped person he was appointed as a Caneman in Gopalpur BSO(P) under Garrison Engineer, Gopalpur-on-Sea, where he joined on 8.2.1988. He was transferred to Bhubaneswar from Gopalpur where he joined on 28.9.1996. The petitioner's case is that while he was at Gopalpur he had asked the departmental authorities for allotment of quarters to him and the departmental authorities in their letter dated 15.10.1996 indicated that the quarter of Shri B.K. Batri, Chowkidar will be allotted to him after it is vacated by the previous incumbent. But in the meanwhile he was transferred to Bhubaneswar, where he

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joined on 28.9.1996. The petitioner's case is that he is a handicapped person and is working as Caneman which is a Class IV post and now in the impugned order of transfer he has been transferred to Bihar and this will involve a considerable hardship to him. It is also submitted by him that because the petitioner insisted on allotment of quarters in Bhubaneswar the departmental authorities have transferred him to Bihar. In view of the above he has come up with the prayers referred to earlier.

2. The respondents have filed their counter in which they have stated that the petitioner suffers from 40% disability in his eye sight. It is also submitted by the respondents that it is only after five years and nine months of his service he applied for allotment of quarter at Gopalpur. The respondents have also stated that the petitioner after his appointment at Gopalpur created lot of trouble and even after his arrival at Bhubaneswar he misbehaved his superior officer and other co-workers, particularly, lady workers. In this regard the lady workers filed petitions against him giving details of misbehaviour and sexual harrassment indulged by the petitioner and these matters were enquired into and the findings of the Inquiring Officer are at Annexure-C. On that basis explanation of the petitioner has been called for and the petitioner has submitted his explanation. The respondents have further stated that it is not correct that because he asked for allotment of quarters he has been transferred. The respondents have further stated that the petitioner is only 40% physically handicapped.

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and he is capable of riding bicycle and scooter and because of administrative reason and his rude behaviour with the lady workers in the office, he has been transferred from Bhubaneswar to Bihta. In view of this the respondents have opposed the prayer of the petitioner.

3. The petitioner has filed a rejoinder in which it has been submitted that one of the two lady workers had been allotted with a quarter and she had sublet the same to outsider. Because the petitioner complained on such subletting the quarter, the lady worker made false allegation against him. It is also submitted by the learned counsel for the petitioner that these two lady workers had complained against him before the State Mahila Commission and according to petitioner the matter was enquired into and found to be false. The petitioner in his rejoinder has stated that these allegations are false respondents and should not have been given weight to such allegations and because of these allegations he has been transferred from Bhubaneswar to Bihta.

4. We have heard the learned counsel for the petitioner Shri A.K.Das and learned Senior Standing Counsel Shri Ashok Mohanty, appearing on behalf of the respondents and have perused the records.

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We find from the counter that the two lady workers had filed petitions against the applicant alleging harrassment and misbehaviour towards them by the petitioner praying that the matter should be enquired into and *prima facie* the matter was held to be proved and on that basis explanation of the applicant was called and

the applicant submitted his explanation. The fact that he has asked for allotment of quarter to him has nothing to do with these allegations made against the petitioner. There is a series of allegations made against him with regard to his misbehaviour towards his colleagues, particularly, lady colleagues and these allegations having prima facie correct after an inquiry, we find nothing wrong in the order passed by the departmental authorities transferring the petitioner from Bhubaneswar to Bihta. This is a case where the transfer is in exigency of service and in the interest of the administration. We, therefore, hold that the petitioner has not been able to make out any case for the relief prayed for in this application. Therefore, this application is rejected. The interim order of stay issued on 18.5.1998 stands vacated. There shall be no order as to costs.

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(G.NARASIMHAM)
MEMBER (JUDICIAL)

B.K.Sahoo, C.M.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
27.8.98