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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 283 OF 1998.
CUTTACK, THIS THE 9TH DAY OF FEBRUARY, 2000.

GOKULANANDA MOHANTY
AND ANOTHER.

....

APPLICANTS.

- VERSUS -

UNION OF INDIA & OTHERS.

RESPONDENTS.

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not?
2. Whether it be circulated to ~~all~~ the Benches of the Central Administrative Tribunal or not?

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
922100
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 283 OF 1998.

Cuttack, this the 9th day of February, 2000 -

C O R A M :

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN
 AND
 THE HONOURABLE MR. G. NARASIMHAM, MEMBER(JUDL.).

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1. GOKULANANDA MOHANTY,
 S/O. LATE GUNANIDHI MOHANTY.
2. GANESH CHANDRA SETHI,
 S/O. LATE DHADI SETHI

Both are working as M. T. Helper, at Aviation Research Centre, Charbatia, PO: Charbatia, Dist. CUTTACK.

... APPLICANT.

- VERSUS -

1. Union of India represented through Director General of Security, Cabinet Secretariat, East Block-V, R.K. Puram, New Delhi-110 066.
2. DIRECTOR, Aviation Research Centre, ARC Headquarters, RK Puram, New Delhi-66.
3. DEPUTY DIRECTOR(ADMINISTRATION), Aviation Research Centre, Charbatia, At/Po: Charbatia, Dist. Cuttack.

... RESPONDENTS.

By legal practitioner for applicant: M/s. S. S. Sen, M. R. Tripathy, Advocates.

By legal practitioner for Respondents: Mr. S. B. Jena, Addl. Standing Counsel (Central).

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application under section 19 of the Administrative Tribunals Act, 1985, the two petitioners, who are working as MT Helper, have prayed for quashing the order dated 13.4.1998 (Annexure-3) transferring them from Charbatia to Sarsawa against the two posts of fitter.

2. Applicants' case is that they originally joined to at ARC, Charibatia in the year 1969 and 1967 respectively and in 1990, they were transferred from ARC Charibatia to Doon Dooma and Sarsawa. On completion of five years tenure on those posts, they were again brought back to ARC, Charibatia in order dated 26.5.1995. Their grievance is that even before they have completed their regular term of five years at ARC Charibatia, they have again been transferred to Saraswa. Applicants stated that according to the Departmental instructions, Gr.D employees are not normally liable to be transferred but inspite of that, these applicants have been transferred in the order at Annexure-3. They have also stated that in the past, when such orders of transfer are issued in respect of other Gr.D employees, they represented against the orders of transfer and it was ordered by the authorities that normally no Gr.D staffs should be transferred and those who have been transferred from Charibatia, will be brought back in due course on the basis of longest stay at out station. It is further stated that during 1995, three

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MT cleaners filed a petition before the Tribunal challenging their orders of transfer at Annexure-2 but even though the Respondents undertook in that case to allow those petitioners to be transferred back to their original place of posting, they are still continuing as MT cleaner. It is further stated that this order of transfer of applicant is against the Departmental instruction. It is also stated that they have been transferred against a higher post and even though they are expected to discharge higher responsibility, they have not been given any higher salary. On the above grounds, they have prayed for quashing the order of transfer.

3. Respondents, in their counter, have stated that the transfer orders have been issued in exigencies of public service and even though in normal circumstances, the Gr. D employees are not liable to be transferred, in this case because of requirement of public service, applicants have been transferred. Respondents have also referred to various decisions of the Hon'ble Supreme Court in which the limits and powers of the Tribunal with regard to dealing with the order of transfer issued by executive authorities have been laid down. On the above grounds, Respondents have opposed the prayer of applicants.

4. In this case, when the matter was called, learned counsel for the petitioners and his associates were absent nor was any request been made on their behalf seeking any adjournment. As this is a transfer matter and pleadings in this case have been completed long ago, it was not possible to drag on the matter indefinitely. We have, therefore, heard Mr. S.B. Jena, learned Addl. Standing Counsel (Central) appearing for the Respondents and have also perused the records.

5. It has been submitted by learned Addl. St. Counsel that in this case, the Tribunal did not grant any stay and in pursuance of the order of transfer, at Annexure-3, two applicants have gone and joined their new place of posting at Saraswati, and have been working there. In view of this, it is submitted by learned Additional Standing Counsel that the Original Application has become infructuous.

6. Petitioners have challenged the order of transfer on the ground that the order of transfer is violative of the Departmental instructions. We find that Departmental Instructions laid down that normally Gr.D employees will not be transferred from their original place of posting. This indicates that even though normally Gr.D employees could not be transferred, Departmental Authorities have the power to transfer the Gr.D employees. It is also

seen, in the past, these applicants have been transferred from Charibatia and have worked elsewhere for about five years. In consideration of this, we hold that the transfer order can not be quashed on the ground that they are Gr.D employees and as such, they are not liable to be transferred from their original place of posting. In this view of the matter, the prayer of applicants to quash the order of transfer is held to be without any merit and rejected.

7. At the same time, it is to be noted that the Departmental Instructions do provide that Gr.D employees normally should not be transferred. It has also been submitted by learned Additional Standing Counsel that two applicants have obeyed the order of transfer and gone and joined at Saraswa. In view of this, while we decline to interfere in the order of transfer, we direct the Departmental Authorities that after completion of their tenure at Saraswa, the Respondents should consider bringing back the applicants to Charibatia within a reasonable period of time.

8. With the above observations and directions, the original Application is disposed of but in the circumstances, without any order as to costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

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(SOMNATH SOM)
VICE-CHAIRMAN 000

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