

**CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO.564 OF 1998
Cuttack this the 21st day of January, 1999

PRONOUNCED IN THE OPEN COURT

Sripati Mohan Biswas

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)**

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**(SOMNATH SOM)
VICE-CHAIRMAN**
21.1.99

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.564 OF 1998
Cuttack this the 21st day of January, 1999

CORAM:

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

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Sripati Mohan Biswas
aged about 47 years,
Son of Late Khagapati Biswas,
At present serving as - Upper Division Clerk,
At: All India Radio, Jeypore,
Dist: Koraput, Orissa

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Applicant

By the Advocates : M/s.P.C.Kar
S.C.Mekap
T.Mohapatra

-Versus-

1. Union of India represented by it's
Secretary, Information & Broadcasting,
Shastri Bhawan, New Delhi
2. Director General,
All India Radio, Akashvani Bhawan,
New Delhi-1
3. Deputy Director General,
Eastern Region, Akashvani Bhawan,
Eden Garden, Calcutta
4. Assistant Station Director,
All India Radio, Jeypore (Orissa)

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Respondents

By the Advocates : Mr.J.K. Nayak,
Addl.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 petitioner, who is an Upper Division Clerk in All India Radio, has prayed that order dated 30.10.1998(Annexure-1) in which consequent on his transfer from Jeypore to Bhawanipatna ~~Phulbani~~ in same capacity of U.D.Clerk he has been relieved from his office and posted at Phulbani.

2. The case of the petitioner is that his children are studying at Jeypore. He has also health problems and his wife is working at Jeypore. In view of this he has prayed for quashing the relieve order at Annexure-1.

3. The respondents in their counter have stated that applicant has worked for long years at Jeypore. In the year 1986, while he was at Jeypore he had assaulted one officer for which he was criminally proceeded against and convicted with a fine of Rs.500/-. Thereafter he was transferred to Cuttack. In Cuttack because of certain lapse on his part a departmental proceeding was initiated against him and he was dismissed from service. On appeal, order of dismissal was set aside with the punishment of reducing his pay by three stages for a period of three years with cumulative effect. The applicant in respect of this proceeding filed Original Application No. 1193 of 1993 before this Tribunal which is pending. Subsequently in the year 1989 he was transferred from Cuttack to Jeypore and he has been working at Jeypore from 1989 onwards. The respondents have further stated that the applicant ^{has} stayed at Jeypore for over nine years. From Jeypore he has been transferred to Bhawanipatna, because

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his past conduct was not satisfactory.

4. Learned counsel for the petitioner is not present when called not any request has been made on his behalf seeking an adjournment. This being a transfer matter no further time can be granted. In view of this we have heard Shri J.K.Nayak, learned Addl.Standing Counsel appearing on behalf the respondents on merits of the case and have perused the record.

5. In this application the applicant has not challenged the order of transfer. He has merely challenged the order at Annexure-1 by which he has been relieved from his post at Jeypore in persuance of the transfer order issued by Deputy Director General, Eastern Zone, Calcutta. We also find that the applicant has stayed at Jeypore from 1989 to 1998. In view of this he cannot claim that he should be allowed to continue at Jeypore. It is submitted by learned Addl.Standing Counsel that applicant's wife is serving in Irrigation Department under the State Government of Orissa and she has been provided with Govt. accommodation in which the applicant and his children are residing. Because of this it is submitted by the learned Addl.Standing Counsel that in spite of applicant's transfer to Bhawanipatna his children can continue their studies at Jeypore till the academic session is over. In consideration of the above and in consideration of the fact that the applicant is in a transferable job and has stayed at Jeypore for about nine years, we find no merit in this application. We also note that in view of the fact the applicant has not challenged the order of his transfer to Bhawanipatna, his

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prayer for quashing the relieving order is not maintainable. In view of this we hold that the applicant has not been able to make out a case. Therefore the application is held to be without any merit and the same is rejected, but without any order as to costs.

(G.NARASIMHAM)
MEMBER(JUDICIAL)

B.K.SAHOO

Somnath Soni
(SOMNATH SONI)
VICE-CHAIRMAN
21.1.99