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CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 16 OF 1999  
Cuttack this the 31st day of March, 1999

PRONOUNCED IN THE OPEN COURT

Nilakantha Das

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*  
(G. NARASIMHAM)  
MEMBER (JUDICIAL)

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN. 99

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 16 OF 1999  
Cuttack this the 31st day of March, 1999

CORAM:

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

Nilakantha Das, 38 years,  
S/o. H.K.Das, Badhuan, Bhadrak  
at present Station Master, Bhanagabazar  
Rly.Station, S.E.Rly, under  
Khragpur Division,  
At/Po:Bhanaga, Dist: Balasore

...

Applicant

By the Advocates : M/s.A.K.Mishra  
B.B.Acharya,  
P.R.J.Das,  
J.Senapati  
D.K.Panda

-Versus-

1. Union of India represented through  
General Manager, S.E.Rly., Garden Reach,  
Calcutta-23
2. Divisional Operation Manager,  
S.E.Rly, Kharagpur, W.B.
3. Divisional Personnel Officer,  
S.E.Rly., Kharagpur, W.B.

...

Respondents

By the Advocates : Mr.D.N.Mishra  
Standing Counsel  
(Central)

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ORDER

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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~~ dated 28.12.1998 at Annexure-1 transferring him from the post of <sup>Asstt.</sup> Station Manager Bahanagar Bazar to Jhadagaon in the same grade and pay in ~~the~~ administrative interest.

2. The applicant's case is that this transfer has been made during mid academic session and if he is transferred now, then the education of his children will suffer. Secondly it is submitted that his children are studying in Oriya Medium and at the new place of posting at Jhadagaon there is no Oriya Medium School. Thirdly it is submitted by the learned counsel for the petitioner that his parents are old and suffering and by this transfer it will be difficult for him to look after them. Further it is submitted that most of the transfers in order at Annexure-1 have been made against the vacancies as per representation/request of the incumbents, but in case of petitioner, even without any representation, he has been transferred.

3. The respondents in their counter have submitted that the applicant was earlier working at Soro and he was transferred from Soro to BNBR on a C.B.I. corruption case which is still subjudice. It is submitted by the respondents that though the applicant joined BNBR, he did not vacate the railway quarters allotted to him at Soro, which caused problems to other staff; <sup>nor</sup> he did occupy the quarters allotted to him at Soro causing loss of revenue to Railways. The post of Assistant Station

J. Som.

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Manager being a divisionally controlled post and the Sr.Divisional Operating Manager being the competent authority, has transferred the applicant on administrative interest. It is further submitted by the respondents that the applicant was working in BNBR Station since 1993 being transferred from Soro and after working for about five years he has been transferred to JGM on administrative interest. Respondents have denied that the transfer order has been issued in order to victimise the petitioner. On the above grounds the respondents have opposed the prayer of the applicant.

4. Petitioner has filed a rejoinder to-day in Court with copy to learned Standing Counsel Shri D.N.Mishra in which it is stated that he was originally transferred from Soro to Hijil and after continuing there for about six months, on the recommendation of the C.B.I. he was transferred to Markona and thereafter to Bhanagabazar, where he is working. On the question of vacating of quarters, it is stated that he had vacated the quarter on 8.4.1998. It is further stated that the petitioner has been working at Bhanagabazar since November, 1994 and has not completed five years as is mentioned by the respondents in their counter. In consideration of this the petitioner, in his rejoinder has reiterated his prayer as referred in the Original Application.

5. We have heard Shri A.K.Mishra, learned counsel for the petitioner and Shri D.N.Mishra, learned Standing Counsel appearing for the respondents and have perused

the records.

Learned counsel for the petitioner has drawn our attention to the decision of the Hon'ble Supreme Court in the case of **Director of School Education, Madras and others vs. O.Kuruppathevan** reported in 1995(1) A.T.(S.C.) 21 in which their Lordships of the Hon'ble Supreme Court set aside the order of the Tribunal quashing the transfer of the respondents before them on the ground that the respondents have not been heard before the transfer order was made. But while overruling the order of the Tribunal, their Lordships of the Hon'ble Supreme Court observed that the transfer order should not have been made during the academic session and directed the departmental authorities not to effect the transfer order till the end of current academic session. In the instant case the petitioner has been working at Bhanagarbazar for the last five years according to respondents and for four years, according to applicant, but his children are studying at Soro. Therefore, he cannot say that by virtue of his transfer, education of his children would be adversely affected. It is submitted by the learned counsel that the petitioner has taken a house on rent at Soro and kept his family there even after his transfer to <sup>Bhanagarbazar</sup> ~~Madhagan~~. In any case the applicant has stayed at Bhanagarbazar for the last four years ~~as~~ according to him and prior to this with a gap of six months, according to him, at Hijil and three months at Markona, he was at <sup>the</sup> ~~nearby~~ Stations <sup>at Soro</sup>. The admitted position is that the petitioner has transfer liability through out S.E.Railway Zone. In consideration of this we

do not think that the applicant has been able to make out a case for quashing the impugned order of transfer. In view of this 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 Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN *3/3/99*