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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 252 OF 1999.

Cuttack, this the 24th day of August, 1999.

Manorama Dash. Applicant.

- Versus -

Union of India & Others. 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.

(S. NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN

24.8.99

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 252 OF 1999.

Cuttack, this the 24th day of August, 1999.

C O R A M:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDICIAL).

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MISS. MANORAMA DASH,
Aged about 38 years,
D/o. Sri Ganeswar Dash,
at present working as Lower Division
Clerk, Aviation Research Centre,
Government of India,
P.O. Charbatia, Dist. Cuttack.

APPLICANT.

By legal Practitioner : M/s. P. Patnaik, R. C. Patnaik, B. N. Das,
Advocates.

- VERSUS -

1. Union of India represented through its Secretary, Ministry of Civil Aviation, Cabinet Secretariat, R. K. Puram, New Delhi.
2. Director-General of Security, Aviation Research Centre, Cabinet Secretariat, East Block V, R. K. Puram, New Delhi-110066.
3. Director, Aviation Research Centre, Directorate General of Security, Cabinet Secretariat, East Block V, R. K. Puram, New Delhi-110066.
4. Deputy Director (Administration), Aviation Research Centre, P.O. Charbatia, Dist. Cuttack, PIN-754 028 (Orissa).

RESPONDENTS.

By legal practitioner : Mr. S. B. Jena, Additional Standing Counsel (Central).

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O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application under section 19 of the Administrative Tribunals Act, 1985, applicant has prayed for quashing the order of transfer at Annexure-4 so far as it relates to applicant. For the purpose of considering this Original Application, it is not necessary to go into too many facts of this case. By the order dated 16-4-1999, at Annexure-4, applicant who is working as Lower Division Clerk in Aviation Research Centre, Charibatia has been transferred to Delhi. In her physically application, she has stated that she is a handicapped physically person and there are other handicapped persons, who have remained in Charibatia for periods longer than the applicant but ignoring their cases, the applicant has been picked up for transfer to Delhi and that is how she has come up in this Original Application with the prayer referred to earlier.

2. Respondents, in their counter have pointed out that the applicant has been appointed under the physically handicapped quota and the extent of disability of applicant is 40%. Some other physically handicapped persons have higher levels of disability ranging from 45% to 80% and that is how, applicant has been chosen.

It is also stated that earlier she was transferred from ARC, Charibatia to ARC Doam Dooma but she wanted to continue at ARC Charibatia for sometime and that is how, she was retained at ARC Charibatia for another period of three years. Applicant has been continuing at ARC Charibatia from the date of her appointment i.e. from 10.12.1990 and has thus, completed 9 years at ARC Charibatia. On the above grounds, Respondents have opposed the prayer of Applicant.

3. We have heard Mr. P. Patnaik, learned counsel for Applicant and Mr. S. B. Jena, learned Additional Standing Counsel (Central) appearing for the Respondents and have also perused the records.

4. It is submitted by learned counsel for Applicant that Respondents have wrongly stated in their counter that one Shri B. N. Dixit has physical disability to the tune of 60% whereas as it appears from Annexure-6, Shri Dixit has physical disability to the tune of 40% and therefore, ignoring Shri Dixit, applicant who has got physical disability of 45% should not have been transferred.

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Respondents have pointed out that May, 1999, it has been certified by the Professor and Head of the Department of Orthopaedics, SCB Medical College Hospital, Cuttack that the extent of physical disability of Shri Dixit amounts to 60%. It is also to be noted that all the physically handicapped persons have given an undertaking at the time of joining that they are willing to transfer anywhere in India and are also prepared to work at high altitude. In view of this, all the physically handicapped persons are liable to be transferred to other stations of ARC. As the applicant has remained at ARC Charibatia, for 9 years from the year 1990 and her level of physical disability is less than others, she has been transferred to Delhi. We find nothing irrational or illegal in this. The prayer of applicant to cancel her impugned order of transfer, is therefore, held to be without any merit and is rejected.

4. It is submitted by learned counsel for Applicant that at present one post of L.D.C is lying vacant at ARC, Charibatia and she should be adjusted against the said post. The Tribunal has no authority to direct the Departmental Authorities to post a particular person to a particular station. Applicant, if she is so

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advised, may file a representation to the Departmental Authorities to consider her for the vacant post at ARC, Charibatia. We, however, make it clear that we are not expressing any opinion with regard to the merit of the applicant's case in this regard.

5. In the result, the Original Application is disposed of in terms of the observations and directions made above. No costs.

(G. NARASIMHAM)
MEMBER(JUDICIAL)

Somnath Som.
(SOMNATH SOM)
VICE-CHAIRMAN
24-8-99

KNM/CM.