

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.414 OF 1999

Cuttack, this the 24th day of August, 1999

Sri Jalandhar Nayak ....

APPLICANT

Vrs.

UNION OF INDIA ....

RESPONDENT

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

Somnath Som  
(SOMNATH SOM)  
VICE-CHAIRMAN  
A.8.99

24.8.99  
(G.NARASIMHAM)  
MEMBER (JUDICIAL)

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

ORIGINAL APPLICATION NO. 414 OF 1999

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**CORAM:**

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

Jalandhar Nayak, aged about 49 years,  
son of late Khetrabashi Nayak,  
Village-Goradajhadi, PO-Salapadiha, Dist.Khurda,  
at present working as Security Guard, All India Radio,  
Auxiliary Studio, Unit-IV, Bhubaneswar

..... **Applicant**

By the Advocate - Mr. J. K. Misra-2

Vrs.

Union of India, represented by the  
Station Director,  
All India Radio, Cuttack ..... Respondent

By the Advocate - Mr. B. Dash,  
A.C.G.S.C.

**O R D E R**

G. NARASIMHAM, MEMBER (JUDICIAL)

Applicant, a Security Guard serving at Bhubaneswar under All India Radio was transferred to H.P.T. (Fakirpada) by order dated 1.8.1997 Annexure-1. This order was challenged before this Bench in OA No.553/98 mainly on the ground of his inconvenience and inconvenience of his family members with an alternative prayer that he be posted at Bhubaneswar since some posts were lying vacant. By order dated 12.5.1999 this Tribunal dismissed the application. This order was assailed before

the Hon'ble High Court in OJC No.6982 of 1999. The Hon'ble Court dismissed the OJC (Annexure-4) observing that there is no infirmity in the order of this Bench but observed that in case any post is lying vacant, the applicant if so advised can ventilate his grievance with the Department in which event the Department shall consider the same in its proper perspective and pass necessary orders.

The applicant then represented to the Department (annexure-5) reiterating his domestic inconvenience specifically indicating the posts at Bhubaneswar which would be going to be vacant soon. However the Department in order dated 2.8.1999 (Annexure-5) though considered the representation sympathetically rejected the same on the ground that since HPT AIR (Fakirpada) is suffering from acute shortage of Security Guards at the moment and directed the applicant to join duties there immediately in public interest.

The present OA has been filed challenging this order under Annexure-5 on the very same grounds averred in the earlier OA and for his continuance at Bhubaneswar.

We have heard Shri Misra, the learned counsel for the applicant at length. This application according to us is not maintainable because the cause of action is the same as in the earlier OA dismissed by this Bench and confirmed by the Hon'ble Court.

Even on merits, we do not see any legal infirmity in the order under Annexure-5 which is a reiteration of the earlier order under Annexure-1 after disposing of his representation sympathetically in public interest. No statutory rule has been violated in passing

transfer order. Nor is it the case that it was passed on account of malice.

The application is without any merit and is dismissed as not admitted.

*Somnath Som*  
(SOMNATH SOM)

VICE-CHAIRMAN

24.8.99

*G. Narasimham*  
(G. NARASIMHAM)

MEMBER (JUDICIAL)

24.8.99

AN/PS