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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION No. 484 OF 1999.

Cuttack, this the 26th day of July, 2000.

JEEBAN SAHU.

....

APPLICANT.

VRS.

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)
VICE-CHAIRMAN

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CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION No. 484 of 1999.
CUTTACK, this the 26th day of July, 2000.

CORAM;

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN
AND
THE HONOURABLE MR. G. MARASIMHAM, MEMBER (JUDICIAL)

JEEBAN SAHU.,
S/o. Late Hrusikesh Sahu,
Assistant Superintendent of Post offices I/c,
Dhenkanal Sub Division, At/Po: Dhenkanal,
Dist: Dhenkanal, pin-759 001.

.... APPLICANT.

By legal practitioner : M/s. P.K. Padhi, U.R. Bastia, Advocates.

- Versus -

1. Union of India represented through its Director General (Posts), Dak Bhawan, Sansad Marg, New Delhi-1.
2. Chief Postmaster General (Orissa Circle), At/Po: Bhubaneswar, Dist. Khurda-1.
3. Superintendent of Post offices, Dhenkanal Postal Division, At/Po/Dist: Dhenkanal-1.

... RESPONDENTS.

By legal practitioner Mr. A. Routray, Additional Standing Counsel.

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ORDER

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this original Application under section 19 of the Administrative Tribunals Act, 1985, the applicant, who is a Assistant Superintendent of Post offices, Dhenkanal has prayed for quashing the order dated 12.11.1998 at Annexure-3 and for a direction to the Respondents to pay T.A. and T.P.

for such transfer. Applicant has stated that after continuing in Cuttack City, he has completed his station tenure which according to the applicant is six years in one station but the applicant had not completed his tenure in the post held by him as Assistant Superintendent of Post offices (Hqrs.). According to learned counsel for the applicant, the post tenure is four years. Applicant has stated that as he had completed his station tenure, he represented to Respondent No.2 to transfer him to Dhenkanal Division in the interest and convenience of the Department. (emphasis supplied) It is stated that the applicant never represented to forego his TA and DA. Applicant has stated that he was transferred to Dhenkanal in order dated 31.10.1997 but in the transfer order at Annexure-1 there was a stipulation that the applicant is not entitled to TA and TP since the transfer has been made at his own request. Applicant was accordingly, relieved from the post of Asst. Supdt. of Post offices (Hqrs.) on 7.11.1997. Applicant's case is that by that date he has completed his station tenure. Applicant accordingly joined in Dhenkanal Division. After joining at Dhenkanal Division, he represented to Res. No.2 quoting the relevant circular of the Director General of Posts regarding his entitlement of TA and TP on transfer at his own request on completion of tenure. A copy of such circular is at Annexure-2. Applicant's grievance is that inspite of the clear circular of the DG of Posts, he was denied his TA and TP and his representation was rejected in order dated 12.11.1998 at Annexure-3. In the context of the above facts, the applicant has come up in this original Application with the prayers referred to above.

2. Respondents in their counter have stated that while working as ASP(Hqrs.), Cuttack North Postal Division, Cuttack, applicant represented in his letter dated 26.3.1997 at Annexure-1 for transfer to Dhenkanal Division for his personal convenience. In this representation at Annexure-R/1, the applicant has stated that he has not been given a chance to work in his home division since his entry in to the Department and as a result, his paternal properties have been encroached by miscreants. He has further stated that he has started construction of a new building at Angul taking house building advance and he is unable to complete the same as he is away from Angul. He has further stated that at Dhenkanal is nearer to Angul and also his native place, his posting at Dhenkanal will enable him to attend his personal problems. He has stated that the post of ASPo, Dhenkanal is lying vacant. He has further stated that he will complete six years of service during April, 1998 and is likely to be disturbed at that time but at that time if there may ^{not be any} vacancy at Dhenkanal because if the vacancy is filled up, then he will be deprived of working in his home Division. In view of this, he prayed that he may be posted as ASPo incharge, Dhenkanal Division. Respondents have further stated that his representation was considered and he was transferred and posted as ASPo, Dhenkanal in order dated 31.10.1997 in which it was clearly mentioned that as the transfer was made on the request of applicant, he is not entitled to any TA or IP. Respondents have further stated that on receipt of this transfer order, the applicant raised no objection to his transfer to Dhenkanal without TA and IP. Later on in order dated 5.11.1997 the SSPo, Cuttack issued an order of his relief and the SPO, Dhenkanal in his order dated 7.11.1997 ordered his

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place of posting. Both these letters dated 5.11.1997 and 7.11.1997 were endorsed to the applicant and in both these Memos, it was mentioned that as the applicant has been transferred on his own request, he is not entitled to any TA and TP. Respondents have stated that even after receipt of these two Memos, the applicant did not raise any objection and he got himself relieved from Cuttack and joined at Dhenkanal presumably without getting any TA or TP. Respondents have stated that after joining at Dhenkanal, the applicant represented for TA and TP. This matter was considered and his representation was rejected. Respondents have stated that in his representation at Annexure-R/5, he had mentioned clearly that he had completed five years and ten months in Cuttack City and therefore, he had not completed six years which is the station tenure. In view of this, Respondents have stated that the circular dated 18.12.1995 (Annexure-2) relied upon by the applicant is not applicable to his case. On the above grounds the Respondents have opposed the prayers of applicant.

3. We have heard Mr. P.K. Padhi, learned counsel for the applicant and Mr. A. Routray, learned Additional Standing Counsel (Central) appearing for the Respondents and have also perused the records.

4. The sole ground urged by the learned counsel for the applicant is that according to the circular at Annexure-2 when after completion of a tenure of an employee, he is transferred to a station on his own request, then he will be entitled to TA and TP even though he had been transferred on his own request. In the instant case, applicant had not completed his tenure. There are two types of tenure involved in the case of applicant.

one is the tenure of the post held by him before transfer order is issued i.e. his tenure in the post of ASPo, Cuttack North Division. He has joined that post on 1.6.1995 and had not completed four years which according to the learned Counsel for the applicant himself, is the post tenure by the time he represented on 26.3.97 or by the time he was transferred in order dated 30.10.1997. The other tenure is the tenure in one station. Petitioner according to his own statement had completed only five years and ten months in Cuttack City and the station tenure is six years. Applicant has stated in the rejoinder that for the purpose of calculating the station tenure 30th September is to be taken as the reference date. If that be the case, then for the purpose of station tenure, 30th September, should have been taken as the reference date. ^{He} ~~He~~ has joined as ASPo, East Sub Division on 1.1.1992 and thus, he would have completed six years on 1.1.1998. Therefore, by 30th September, 1997, which according to him is the reference date he had not completed six years of station tenure. This is also clear from his representation dated 26.8.1997 where he has stated that he will complete six years of service i.e. the station tenure in April, 1998. Respondents have pointed out that normally transfer is ordered in the month of April/May. In the case of the applicant transfer was ordered in Nov., 1997 which is not the transfer season. It is also to be noted that in the transfer order and the order of relief and joining, it was mentioned that the applicant will not be entitled to T.A. AND T.P. and applicant never objected to the same and went and joined at Dhenkanal and only after joining there, he has filed representation for getting the T.A. and T.P. As we have already indicated

the applicant by his own admission has not completed his post tenure by the time his representation or the order of transfer was issued therefore, the circular at Annexure-2 is not applicable to him. As the applicant has been transferred to his home Division on his representation as per existing rules, he is not entitled to TA and TP, and the Respondents have rightly rejected the claim of the applicant.

5. In the result, the original Application is held to be without any merit and is rejected. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN

KNM/CM.