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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 521 OF 1999  
Cuttack this the 9th day of January/2001

P. A. Naidu

...

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)

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN 1/1/2001

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CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 521 OF 1999  
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CORAM:

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

P.A.Naidu, aged about 37 years,  
Son of Late P.Som. Naidu, D.Number, 47/9/20,  
Dwaraka Nagar, Vishakapatna at present  
working as Electrical Signal Maintainer,  
South Eastern Railway (Signal) Titilagarh  
At/PO Titilagarh, Dist: Bolangir

...

Applicant

By the Advocates

M/s.P.K.Mohapatra  
S.Nath

-VERSUS-

1. Union of India represented through its  
General Manager, South Eastern Railway  
Garden Reach, Calcutta
2. Divisional Personnel Officer,  
South Eastern Railway, Sambalpur  
At/PO/Dist-Sambalpur
3. Divisional Signal and Telecom Engineer,  
Sambalpur, At/po/Dist-Sambalpur

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Respondents

By the Advocates

M/s.C.Kasturi  
N.Lenka

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ORDER

*S. Som*  
MR.SOMNATH SOM, VICE-CHAIRMAN: In this Application under Section  
19 of the Administrative Tribunals Act, 1985, the petitioner has  
prayed for quashing the order dated 21.9.1999 at Annexure-5,  
transferring him from Titilagarh to Harishankar Road. His 2nd  
prayer is for direction to respondents to repatriate him to  
his parent Division at Waltair basing on his option and  
representation and in the light of similar benefit extended to  
other similarly situated persons. Respondents have filed their  
counter opposing the prayer of the applicant.

2. Lawyers have abstained from Court work w.e.f. 7.12.2000.

We have been told from time to time that they will be returning to Court work after a few days, but this has not been done and abstaination from Court work has gone on more than a month. So far we have been accommodating the Lawyers by taking up only those cases for disposal where parties were present in person and wanted early adjudication of the matter. But as the abstaination from Court work has gone on for more than a month and there is no indication that the Counsels will be returning to Court work, it is not possible to drag on the matter indefinitely. In the instant case both petitioner and respondent are not present. We, therefore, did not have the benefit of hearing the arguments of the learned counsel from either side. We have therefore, perused the records.

3. For the purpose of disposing of the present Application it is not necessary to go into too many facts of this case. The admitted position is that the applicant is an Electrical Signal Maintainer (ESM in short). He was initially recruited in Waltair Division and had come over the Sambalpur Division and had been posted in Titilagarh Station under the S.E.Railway, Sambalpur. In 1997, for Sambalpur Division, a separate cadre was formed and all the staff, who had come from other Division to Sambalpur were asked to exercise their option either to repatriate to their parent Divisions or to get themselves absorbed in Sambalpur Division. The case of the petitioner is is that he along with <sup>several</sup> others opted to go back to their parent Division, but whereas many other persons were allowed repatriation to their parent Division as per their option, the applicant was retained in Sambalpur Division and no action was taken on the option given by him and also on the

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representations submitted by him from time to time requesting his repatriation to his parent Division at Waltair. While the situation stood thus, the applicant has been transferred from Titilagarh to Harishankar Road in order dated 21.9.1999 vide Annexure-5. The applicant has stated that his children are studying in the English Medium School in Titilagarh and they would not get the same facility at Harishankar Road. In the context of the above, the applicant has come up in this Original Application with the prayers referred to earlier.

4. By way of interim relief the applicant had prayed that the transfer order dated 21.9.1999 should be stayed. In order dated 28.9.1999 respondents were directed to take a view on the prayer of the applicant to repatriate him to his parent Division by 20.10.1999 and till such time the order of transfer of the applicant from Titilagarh to Harishankar Road was stayed. It was also ordered that in case by 20.10.1999, successor of the applicant turned up, the applicant should be obliged to handover the charge to his successor and may go on leave, in which event the respondents should allow the applicant leave till final order was passed on his option to repatriate to his parent Division.

S. Som.

5. Respondents in their counter have admitted that the applicant is an Electrical Signal Maintainer and he is having lien in the Waltair Division and has come to Sambalpur Division on secondment. They have also admitted that the applicant had given his option to go back to his parent Division at Waltair. They have also stated that many such persons, who had opted to go back to their parent Divisions had been repatriated, but as the applicant has been working as E.S.M., in which cadre

there are 13 vacancies out of 47 sanctioned posts, the applicant could not be repatriated. They have stated in Para-5 of their counter that when the situation permits, the optees and the unwilling staff will be gradually repatriated to their parent Divisions. Respondents have further stated that in public interest the applicant has been transferred from Titilagarh to Harishankar Road and there is no illegality involved in the order of transfer. It has also been stated that the applicant's successor has joined and taken over the charge from the applicant on 8.10.1999 and thereafter the applicant was granted leave upto 9.11.1999. As the petitioner is absent and the counsels of the parties have abstained from Court work, it is not possible to know the present situation as to whether the applicant has in the meantime been repatriated to his parent Division or if he is still on leave. Be that as it may, in the context of the above pleadings, the prayers made by the applicant have to be considered.

*S. V. Som.*  
The first prayer of the applicant is to quash the transfer order at Annexure-5. We take it that by this prayer the applicant seeks to get only his transfer order quashed and not the transfer made in that order in respect of other persons whose names do appear in Annexure-5. Law is well settled that in the matter of transfer the scope of interference by the Tribunal is very limited. The Tribunal can interfere only if the transfer order has been issued mala fide or there has been any violation of statutory rules. In the instant case the petitioner has pleaded neither. Therefore, it cannot be said that the transfer order is liable to be quashed.

We order accordingly and reject this prayer of the applicant.

So far as second prayer of the applicant is concerned, he has prayed for a direction to Respondents to repatriate him to his parent Department. From Annexure-1 of the Original Application we find that the staffs as listed in the enclosure to this Annexure were given a second chance to change their option of going back to their parent Divisions and to opt for staying in Sambalpur Division. The name of the applicant appears against Sl. No.10 of S.N.T.Department. From this it appears that earlier to 18.2.1999 the applicant had opted to go back to Waltair Division and again on 18.2.1999 he was asked <sup>his option</sup> to give ~~and~~ get himself absorbed in Sambalpur Division. The applicant <sup>J. Som</sup> has stated in his petition and this has also been admitted by the Respondents in their counter that the applicant has opted to go back to the Waltair Division. It is also the admitted position that many of those optees have been sent back to their parent Divisions. The applicant has opted to go back to Waltair Division obviously sometime prior to February/99 and by now almost two years have elapsed. In view of this Respondents cannot be permitted to retain the applicant in Sambalpur Division against his will, more so, when several other optees, admittedly have been sent to back to their parent Division. We, therefore, dispose of the second prayer of the applicant with a direction to departmental authorities to repatriate the applicant to his parent Division at Waltair within a period of 60(Sixty) days from the date of receipt of copy of this order.

*J. Som*

In the result therefore, the Original Application is

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allowed in part, but there shall be no order as to costs.

(G. NARASIMHAM)  
MEMBER (JUDICIAL)

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN

B.K.SAHOO//