

5

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 573 OF 1999.

Cuttack, this the 14th day of December, 1999.

Guru Prasad Jena. .... 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

(G. NARASIMHAM)  
MEMBER (JUDICIAL)

(SOMNATH SOM)  
VICE-CHAIRMAN  
14/12.99

6

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 573 OF 1999.

Cuttack, this the 14th day of December, 1999.

CORAM:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

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

..

GURU PRASAD JENA,  
Aged about 40 years,  
S/o. late Nishakar Jena,  
permanent resident of Vill. Buhalo,  
PO. Kendupatna, PS: Salipur,  
Block: Nischintakoili, Dist. Cuttack. ... Applicant.

By legal practitioner: M/s. A. S. Naidu, P. K. Mohapatra,  
Advocates.

-VERSUS-

- S. Som*
1. Union of India represented through  
Secretary, Human Resources Department,  
Sashtri Bhawan, Central Secretariat,  
New Delhi-1.
  2. Kendriya Vidyalaya Sangathan, represented  
through Commissioner, 13-Institutional Area,  
Sahid Jeet Singh Marg, New Delhi-16.
  3. Assistant Commissioner, Kendriya Vidyalaya  
Sangathan, Bhubaneswar Region, Housing Plot  
No. 7, B. D. A. Locality, Laxmisagar, Bhubaneswar.
  4. Principal,  
Kendriya Vidyalaya,  
Dhenkanal,  
At/Po. Dhenkanal,  
Dist. Dhenkanal. ... Respondents.

By legal practitioner: Mr. Ashok Mohanty,  
Senior Counsel.

....

O R D E R

( ORAL )

MR. SOMNATH SOM, VICE-CHAIRMAN:

Heard Shri P.K. Mohapatra, learned counsel for the Applicant and Shri Ashok Mohanty, learned Senior Counsel appearing for the Respondents and have also perused the records.

2. In this Original Application under section 19 of the Administrative Tribunals Act, 1985, the applicant, who is a primary School Teacher at Kendriya vidyalaya Sangathan, Dhenkanal, has prayed for quashing his order of transfer dated 30.10.1999 (Annexure-4) so far as it relates to applicant transferring him from Dhenkanal to Khaprail in the District of Darjiling, West Bengal. The applicant has stated that in the recent cyclone, he has suffered considerably damage/loss of property and he is also the only male member of his family. In view of this, it has been submitted by the learned counsel for the applicant that while he is not unwilling to go on transfer out side the Orissa, he wants that he should be retained for one year more in Orissa in consideration of his difficulties. It is stated by learned counsel for the applicant that later on three more vacancies of Primary School Teacher have arisen and the applicant can be adjusted against one of those vacancies.

J Som

3. Respondents in their counter have stated that due to financial crisis in the year 1999-2000, 60 Kendriya vidyalaya sangathanas, all over the country, were closed down and the staff working there were to be adjusted in nearby available vacancies. Because of this, re-appraisal of staff strength were taken into consideration and at Regional Office, Bhubaneswar, identified 41 cases of PRTs who have been rendered surplus in some of the KVS in this region. The Regional Office could locate only 13 vacancies within the region and 13 surplus primary school teachers were adjusted in different KVSS within the Orissa and rest of the teachers had to be transferred out. It is submitted by the learned counsel for the petitioner that subsequently three more vacancies have come to the light and the case of the applicant should be considered for adjustment against those vacancies. It is further submitted by the learned counsel for the Respondents that transferring out of the surplus staffs are done in accordance with the well laid down instructions and principles and those who have become surplus coming under the category of automatic surplus, had to be transferred out taking into their longest period of stay at the existing station. The applicant has the longest period of stay at phenkanal and he is coming under the category of automatic surplus and had to be transferred out from phenkanal.

J Som

4. We have taken note of the submission made by the learned counsel for both sides. The difficulties of the applicant with regard to loss sustained by him in the recent super cyclone is a matter to be considered by the Departmental Authorities. It is to be noted that out of the 23 surplus Primary School Teachers, who could not be adjusted against the vacancies of 13 available in this region, the position occupied by the applicant is also not clear from the pleadings of the parties. In consideration of this, we dispose of the Original application by directing the applicant to file a representation to the authorities seeking adjustment against one of the three vacancies or any future vacancy which may have arisen thereafter. Respondent No.2 is directed to dispose of the representation within a period of 20 days from the date of receipt of a copy of the same and if the representation made by the applicant is still pending then from the date of 20 days from today and intimate the result to the applicant within a period of 7 days thereafter. We understand that the applicant is currently on leave. The Respondents are directed to allow the applicant to remain on leave, if he so advised, till the representation is disposed of.

5. With the above observations and directions, the Original Application is disposed of and the MA is also disposed of. No costs.

(G. NARASIMHAM)  
MEMBER (JUDICIAL)

KNM/CM.

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHANCELLOR  
14/12/99