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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 65 OF 1999
Cuttack, this the 29th day of April, 1999

Sri Chandra Bali Applicant

Vrs.

Union of India and another 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
(SOMNATH SOM)
VICE-CHAIRMAN 29.4.99

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CUTTACK BENCH, CUTTACK.**

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CORAM:

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

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Sri Chandra Bali, aged about 58 years, son of late T.Lal, presently working as Senior Inspecting Engineer, South Eastern Railway Concrete Sleeper Plant, Jharsuguda, Orissa Applicant

Advocates for applicant - M/s A.Routray
P.K.Padhi, U.R.Bastia

Vrs.

1. Union of India, represented through its General Manager, S.E.Railway, Garden Reach, Calcutta.
2. Deputy Chief Engineer, Track Planning, S.E.Railway, Garden Reach, Calcutta Respondents

Advocate for respondent - Mr.S.R.Patnaik
A.S.C.

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this Application under Section 19 of Administrative Tribunals Act, 1985, the petitioner has prayed for quashing the order dated 22.1.1999 transferring the applicant and also for a direction to respondent no.1 to allow the applicant to continue as S.I.^E at Jharsuguda.

2. The applicant's case is that he was posted at Jharsuguda as Assistant Inspecting Engineer in Concrete Sleeper Plant since the end of 1994. Subsequently, he was promoted to the post of Senior Inspecting Engineer, Concrete Sleeper Plant, Jharsuguda, with effect from 23.12.1996. The applicant is a very sincere and hard working Engineer. During the last 38 years of service he has received cash awards, merit certificates and at least five medals from the Railway authorities. Respondent no.1 transferred the petitioner from Jharsuguda to Garden Reach, Calcutta, in the order dated 15.6.1998, but the order was not given effect

to till September 1998. On 9.9.1998 the petitioner availed leave for performing the annual Shradha ceremony of his wife who had passed away on 10.9.1997. After expiry of leave he was not allowed to join at Jharsuguda and was asked to join at Garden Reach, Calcutta. The petitioner has stated that his minor son is studying at Jharsuguda. After his retirement he wants to settle down at Jharsuguda. At this stage his transfer to Garden Reach would put him to serious financial difficulties. He approached the Tribunal in OA No. 506 of 1998 challenging the aforesaid order of transfer. That OA was disposed of in order dated 18.11.1998 directing the petitioner to file a representation before the departmental authorities within ten days and the departmental authorities were directed to dispose of the representation within thirty days. Accordingly, he made a representation on 25.11.1998 at Annexure-1, but this was rejected in the order dated 14.12.1998 at Annexure-2 which has been impugned in this O.A. The petitioner has stated that he is a most sincere and efficient officer and that is why he has been posted in sensitive post like Senior Inspecting Engineer, Concrete Sleeper Plant at Jharsuguda. He has also stated that in order to adjust one Chaudhury of Bilaspur Division, he has been transferred. In his representation he has prayed to accommodate him in any post either at Jharsuguda or at nearabout place, but this has not been considered. The applicant has given examples of several persons who have been working for long years in the same station and has stated that he has been singled out and has been subjected to hostile discrimination. In the context of the above facts, the applicant has come up with the prayer referred to earlier.

3. Respondents in their counter have stated that the applicant has been transferred from Jharsuguda to Garden Reach, Calcutta, in the order dated 15.6.1998. But instead of complying with the order, he approached the Tribunal in an O.A. The respondents have stated that transferring its officers and staff is the prerogative of

the Department and deferment of the transfer seriously affects the credibility and effectiveness of the Administration. It is further stated that pending adjudication of case by the Tribunal, the deferment of transfer is causing serious administrative inconvenience and the presence of the applicant at Garden Reach is urgently required. The respondents have further stated that in obedience the order of the Tribunal in OA No. 506 of 1998 the applicant's representation has been considered and rejected. They have also stated that the transfer is not by way of punishment. It does not affect the official status, scale of pay of the applicant. The transfer of the applicant has been ordered for administrative needs and in administrative exigencies. On the above grounds, they have opposed the prayer of the applicant.

4. We have heard Shri A.Routray, the learned counsel for the petitioner and Shri S.R.Patnaik, the learned Additional Standing Counsel appearing for the respondents and have also perused the records.

5. The applicant has been working as Assistant Inspecting Engineer and thereafter as Senior Inspecting Engineer in the Concrete Sleeper Plant, Jharsuguda. He has admitted in his petition that he is working in a sensitive post. There are instructions in the Railways that persons working in sensitive posts should be transferred after a fixed tenure. The applicant has been working at Jharsuguda in the Concrete Sleeper Plant from 1994 according to his submission. He has already completed five years in the Concrete Sleeper Plant, Jharsuguda. It is also the admitted position that the applicant is in a transferable job and therefore, the position of law is well settled that in the matter of transfer the scope of interference by the Tribunal is limited. The Tribunal can only interfere in an order of transfer if the same is issued mala fide or in violation of statutory rule. In the instant case the applicant has not alleged mala fide nor has he shown that any statutory rule has been violated by his order of

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transfer. In view of this, no case for interference by the Tribunal is made out.

6. The applicant has mentioned about his personal and family difficulties because of his transfer from Jharsuguda to Garden Reach, Calcutta. These are matters which are to be considered by the departmental authorities. They have considered the same and rejected his representation.

7. In the result, we hold that the applicant has not been able to make out a case for the relief claimed by him. The Original Application is, therefore, held to be without any merit and is rejected. No costs.

(G. NARASIMHAM)

MEMBER (JUDICIAL)

(SOMNATH SOM)

VICE-CHAIRMAN