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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 167 OF 2001
Cuttack, this the 22nd day of June 2001

Sri Radhakanta Pradhan Applicant

Vrs.

Union of India and 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.

S. N. MATHUR
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VICE-CHAIRMAN
22.6.2001

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

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CORAM:

HON'BLE SHRT SOMNATH SOM, VICE-CHAIRMAN

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Sri Radhakanta Pradhan, aged about 44 years, son of late Narayan Prasad Pradhan, working as Sub-Divisional Inspector of Post Offices, Pattamundai Sub-Division, permanent resident At/PO-Nikirai, District-Kendrapara....
.....
Applicant

Advocates for applicant - M/s M.Pratap
S.Pradhan
R.K.Satpathy

Vrs.

1. Union of India, represented by its Secretary, Department of Posts, Dak Bhawan, New Delhi.
2. Director (Staff), Dak Bhawan, Sansada Marg, New Delhi-1.
3. Chief Post Master General, Orissa Circle, Bhubaneswar.
4. Director of Postal Services, Headquarters Region, Bhubaneswar.
5. Sri Kunja Bihari Rath, Superintendent of Post Offices, Cuttack North Division

....Respondents

Advocate for respondents - Mr.A.K.Bose
Sr.CGSC

O R D E R
SOMNATH SOM, VICE-CHAIRMAN

S. Jom.
In this O.A. the petitioner has prayed for quashing the order dated 4.5.2001 (Annexure-6) transferring the applicant from the post of S.D.I.(Postal), Pattamundai, to Berhampur Region.

2. The case of the applicant is that he joined as Postal Assistant in 1981 and was duly promoted

to the post of Inspector of Post Offices in 1992. On 18.7.2000 the applicant joined as S.D.I.(Postal), Pattamundai. While working as such, in course of inspection he found that one S.N.Mohanty, Postal Assistant, Namouza, was involved in major fraud and corruption case. His modus operandi was that he was issuing bogus money orders of very small amounts addressed to Satsangh Vihar and these amounts were incorporated in Government Account. But the relevant money order forms were destroyed subsequently and bogus money orders were issued under the same money order receipt numbers and payments were made. In such way lakhs of rupees were misappropriated. During investigation S.N.Mohanty accepted his guilty and deposited Rs.1,86,000/- and the investigation is continuing. The applicant reported against S.N.Mohanty on 7.3.2001 and recommended that he be placed under suspension. Accordingly, S.N.Mohanty was placed under suspension on 9.4.2001. The applicant has stated that Superintendent of Post Offices, Cuttack North Division, Shri K.B.Rath, who has been impleaded by name as respondent no.5, was not desiring to place Sri S.N.Mohanty under suspension. But because of recommendation of the applicant Shri Mohanty was placed under suspension. The applicant filed an FIR against Shri Mohanty in Aul Police Station on 28.4.2001. The applicant has stated that he is pursuing the above criminal case at the level of Superintendent of Police. But in the meantime in the impugned order dated 4.5.2001 (Annexure-6) he has been transferred out of Pattamundai to another region, namely, Berhampur Region. The applicant has stated that against the untimely transfer order he has filed a representation on 11.5.2001 at Annexure-7 on the ground that such

untimely transfer will affect the studies of his children and the transfer has been made because of the applicant taking action against S.N.Mohanty who, according to the applicant, was advised by respondent no.5 to burn all the incriminating documents relating to the fraud. The applicant has stated that if in such circumstances he is transferred because of taking action against corrupt employee, then he would be completely demoralised and on the above grounds, he has come up in this petition with the prayers referred to earlier. By way of interim relief the applicant had prayed that the transfer order should be stayed. In order dated 15.5.2001 the transfer order at Annexure-6 was stayed till 6.6.2001 and the above stay order has continued till today.

3. The departmental respondents have filed showcause and have submitted that the showcause may be taken as counter, and the applicant has filed rejoinder. It is necessary to record all the averments made by ^{not} ~~the~~ ^{of} respondents in their counter and the applicant in his rejoinder because these will be referred to while considering the submissions made by the learned counsel for both sides.

4. I have heard Shri M.Pratap, the learned counsel for the petitioner and Shri A.K.Bose, the learned Senior Standing Counsel for the departmental respondents and have perused the record.

5. The learned counsel for the petitioner has submitted that after his joining as S.D.I.(P), Pattamundai, the applicant pulled up his subordinate staff for various lapses. He also took action against S.N.Mohanty for misappropriation and on his report Shri

Mohanty was placed under suspension which was not to the liking of respondent no.5. That is why the applicant has been transferred from Pattamundai and has been posted to Berhampur Region and the Director, Postal Services, Berhampur Region in his order dated 18.5.2001 has posted him as S.D.I.(P), Nawarangpur. It is stated that the applicant has served as Postal Assistant for twelve years in undivided Koraput district at Rayagada, Malkanagiri and other places. The transfer has come in mid-academic session and on this grounds he has asked for quashing the order of transfer. It has been submitted by the learned counsel for the ~~petitioner~~ ^{SJm} that the scope of interference of Tribunal in transfer order is somewhat limited. It has been laid down by the Hon'ble Supreme Court that the transfer order can be interfered with only if the order of transfer is issued mala fide and in violation of the statutory rules.

6. I have considered the rival submissions carefully. The Hon'ble Supreme Court in the case of State of Punjab v. Joginder Singh Dhatt, ATR 1993 SC 2486, have held that it is for the executive authority to decide who will be posted where and the Tribunal should not ordinarily interfere in cases of transfer unless the orders of transfer are issued mala fide and in violation of statutory rules. The applicant in his petition has alleged mala fide against Superintendent of Post Offices, Cuttack North Division. No counter has been filed by respondent no.5. But we see that the impugned order of transfer has been issued by the Chief Post Master General against whom no allegation of mala fide has been made. In view of this, it is not possible to hold that the order of transfer has

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been issued mala fide. This contention is accordingly rejected.

7. The second limb of argument of the learned counsel for the petitioner is that because of his strong action against the defaulting staff, they have combined against the applicant and because of this he has been transferred. The departmental respondents have pointed out that the money order fraud case of S.N.Mohanty came to notice on 15.2.2001 when a discrepancy in the amount of money order issued was reported by Deputy Director of Accounts (Postal), Cuttack. Respondent no.5 directed the Assistant Superintendent of Post Offices on 15.2.2001 to investigate into the matter and accordingly the Assistant Superintendent of Post Offices investigated into the matter on 17.2.2001 and 19.2.2001 and the money order fraud amounting to Rs.21,716/- was established. It is stated by the departmental respondents that the applicant did not play any pivotal role in the matter of repayment of Rs.1,86,000/- by Shri S.N.Mohanty. The respondents have further stated that the applicant's work as S.D.I.(P), Pattamundai, was unsatisfactory. He was allotted the work of cent percent verification of Savings Bank accounts in certain post offices. He could not complete the work. He also did not conduct timely inspection of post offices. It is further stated that he was proceeded against under Rule 16 of CCS (CCA) Rules and imposed with punishment of stoppage of one increment. The applicant in his rejoinder has stated that he was burdened with work and that is why the work of verification of Savings Bank accounts could not be completed. He has also denied his lapses with regard to the proceedings in which the punishment was imposed on him. It is not necessary for

me to go into the question whether the punishment was justly imposed on the applicant. From the averments made by the departmental respondent it is clear that the departmental authorities were not satisfied with the work of the applicant with regard to specific items as mentioned in the counter. It is for the departmental authorities, therefore, to take a view with regard to the manner in which these lapses are to be dealt with. It is also to be noted that the transfer is an incidence of service and admittedly the post held by the applicant has Circlewise transfer liability. In view of this, it is not possible to hold that the impugned order at Annexure-6 transferring the applicant from the post of Sub-Divisional Inspector (Postal), Pattamundai, is legally unsustainable. The prayer of the applicant for quashing the impugned transfer order at Annexure-6 is, therefore, held to be without any merit and is rejected.

8. In view of my above discussion, the Original Application is held to be without any merit and is rejected. The stay order issued earlier is also vacated. No costs.

Somnath Som.
(SOMNATH SOM)
22.6.2001
VICE-CHAIRMAN