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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 102 OF 2002
Cuttack, this the 5th day of April, 2002

CORAM:

HON'BLE SHRI M.R. MOHANTY, MEMBER (JUDICIAL)

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Sri Chintamani Naik, aged about 59 years, son of late Lakhan Naik, working for gain as Chief Ticket Inspector (in short CTI), S.E. Railway, Khurda Road under the Sr. Divisional Commercial Manager, S.E. Railway, Khurda Road, at present staying at Quarter No. G67/C, Accounts Colony, Khurda Road, P.O.-Jatni, District-Khurda

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Applicant

Advocate for the applicant - Mr. Achintya Das

Vrs.

- AFR
1. Union of India, service through General Manager, S.E. Railway, Garden Reach, Kolkata-43.
 2. Divisional Railway Manager, S.E. Railway, Khurda Road, P.O.-Jatni, District-Khurda PIN 752 050.
 3. Sr. Divisional Commercial Manager, S.E. Railway, Khurda Road, P.O.-Jatni, Dist. Khurda PIN 752 050.
 4. Chief Commercial Manager, S.E. Railways, 14 Strand Road, Kolkata 1, PIN-700 001.
 5. Member Staff, Railway Board, Rail Bhawan, New Delhi.

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..... Respondents

Advocate for the respondents - Mr. S.R. Patnaik

O R D E R

M.R. MOHANTY, MEMBER (JUDICIAL)

The applicant, a member of the Scheduled Caste, having faced a transfer from Khurda Road Division to Sambalpur Division of South Eastern Railway, within eleven months before his retirement, has filed this O.A. challenging the said order of transfer. His case is that for the reason of several circulars of the Railways, as detailed below, he ought not to have been transferred from

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Khurda Road Division at all. The Advocate for the applicant has drawn my attention to the Railway Board's letter No.E(SCT)60 CMI/100, dated 8.12.1960 (Annexure-A/9) relating to hardships caused to Scheduled Castes who are transferred to places far away from their home town. He has The relevant portion of the said circular dated 8.12.1960 is quoted below:

"It has been represented that persons belonging to the Scheduled Castes who are posted at places far off from their home town experience considerable difficulties especially in hiring residential accommodation. It has been suggested that the transfer of such employees should be confined to their native districts or adjoining districts or places where the Administration can provide quarters.

The Board desire that the above suggestion should be followed as far as practicable subject to exigencies of service."

He has also drawn my attention to the Railway Board's letter No.E(SCT) 70 CM 15/153, dated 19.11.1970, the (Annexure A/10), the relevant portion of which is quoted below:

"Attention is invited to Board's letter No.E(SCT) 60CM 1/100, dated 8.12.60, wherein it was desired that the transfer of Scheduled Caste and Scheduled Tribe employees should be confined to their native districts or adjoining districts or places where the administration can provide quarters and that these instructions should be followed as far as practicable subject to exigencies of service. The Board now desire that these instructions should be followed to the maximum extent possible subject of course to the exigencies of service."

The Advocate for the applicant has also drawn my attention to the Railway Board's letter No.E(SCT)74CM 15/58, dated 14.1.1975 (Annexure-11), the relevant portion of which is

extracted hereinbelow:

"Attention is invited to Board's letter No.E(SCT) 70 CM 15/15/3 dated 19.11.1970 wherein it was desired that the transfer of Scheduled Castes and Scheduled Tribe employees should be confined to their native districts or adjoining districts or places where the administration can provide quarters and that these instructions should be followed to the maximum extent possible, subject of course to the exigencies of service.

2. It has been represented that the Scheduled Castes and Scheduled Tribes are being transferred from one place to other quite frequently. The Board have, therefore, decided that the employees belonging to Scheduled Castes and Scheduled Tribes should be transferred very rarely and not very strong reasons only."

In Railway Board's letter No.85-E(SCT)1-43/1, dated (Annexure-12) 24.12.85, it has been stated as below:

"A few cases of transfer of SC/ST employees have come to the notice of the Board wherein the above mentioned instructions have not been followed. They, therefore, desire that instructions on the subject should be reiterated to all concerned that due consideration should be given to the above mentioned instructions while ordering transfer/posting of SC/ST employees."

My attention has also been drawn to the Railway Board's circular No.E(MPP)/99/1/75, dated 28.11.2000 (Annexure-A/13) relating to re-deployment of Surplus Staff, the relevant portion of which is extracted below:

"All surplus staff irrespective of the grades, who are superannuating within the next three years (3-year period should be counted from the date of issue of these instructions in the case of those already declared surplus and from the date of staff being rendered surplus in future cases) should be redeployed at the same station in any department where vacancies exist and where they can be utilized gainfully, and the original posts surrendered and money value credited to the Vacancy Bank. Those of such staff who cannot be redeployed at the same station for any reason should be placed against "special supernumerary" posts forthwith. On vacation of the special supernumerary posts by them in due course for any reasons such as retirement, etc., these posts are to be surrendered and money value

credited to the vacancy Bank."

In Establishment Serial No. 153/93, dated 24.11.1993 (Annexure-A/14) it has also been laid down that various posts in all grades are required to be pin-pointed and operated at fixed places as per distribution of posts. However, there may be some genuine case where it may be necessary to transfer the element of higher grade post to place where the employee due for promotion is presently working. Keeping this in view it has been decided that the element of posts may be floated to the extent of 10% of the cadre of all the particular posts/grades at any given point of time where an employee is due for superannuation within two years from the date of issue of promotion order. The Department of Personnel & Training, Government of India, in their O.M. No.36026/3/85-Estt.(SCT), dated 24.6.1985, have emphasised that Government servants should desist from any act of discrimination against members of SC/ST communities on grounds of their social origin. In the said Office Memorandum, senior officers, including the Liaison Officers of the Ministry/Department have been requested to keep a close watch to ensure that such incidents do not occur at all. It has also been laid down that if any such incident comes to the notice of the authorities, action should be taken against the erring officials promptly.

2. Since the applicant is a member of Scheduled Caste community and is going to retire within next eleven months, the respondents should, in my considered opinion, cancel the impugned transfer order and allow the applicant to be posted within Khurda Road Division.

3. With the aforesaid observation and direction, the Original Application is disposed of. No costs.


(M.R. MOHANTY)

MEMBER (JUDICIAL)

AN/PS