

Order No.1, dated 04-04-2003.

Applicant having faced the order of transfer from Cuttack Bench of the Income -Tax Appellate Tribunal to Mumbai Bench of the Income Tax Appellate Tribunal (under Annexure-2 dated 12.9.2002 of the present Original Application) had initially, moved this Tribunal in O.A. No.824/2002 which was disposed of in order dated 05-02-2003 giving liberty to the Applicant to move his authority (i.e. President, Income Tax Appellate Tribunal, Mumbai) ventilating his grievances in regard to his transfer. As it appears, the President of the Income-tax Appellate Tribunal, Mumbai (Respondent No.1) considered the grievances of the Applicant and rejected the representation of the Applicant for his retention at Cuttack Bench of the I.T.A.T. in order dated 28.02.2003 (Annexure-5). Again the Applicant challenged the said order of rejection dated 28.2.2003 in O.A.No.115/2003. The said Original Application was taken up on 5-3-2003. Upon hearing the parties, as the order of rejection dated 28-2-2003 was, *ex facie* found to be a non-speaking one, holding that the same is not sustainable in the eye of law, the matter was again remitted back to the President of the Income Tax Appellate Tribunal, Mumbai (Respondent No.2) for giving a fresh look into the matter personally and pass a reasoned and speaking order. Apparently, pursuant to the order of this Tribunal, the President of the Income Tax Tribunal considered the grievances of the Applicant and due to exigencies of service rejected the prayer of the Applicant for his retention at Cuttack under Annexure-6 dated 24.3.2003 and accordingly, the applicant

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was relieved under Annexure-7 dated 31.3.2003 from the post of Sr.P.S., of the I.T.A.T. Cuttack, enabling him to join at his new place of posting at Mumbai. Again in this third journey, the applicant has challenged the said order of rejection under Annexure-6 dated 24.3.2003 under Section 19 of the Administrative Tribunals Act, 1985.

2. Heard the Applicant in person and Shri A.K.Bose, Learned Senior Standing Counsel for the Union of India; on whom a copy of this Original Application has been served and perused the records.

3. It is an admitted fact that transfer is an incident of service and the Applicant is holding a post having all India transfer liability. It also reveals from the order of rejection dated 24.3.2003 (Annexure-6) that the applicant was posted to the Mumbai Bench of the I.T.A.T. in the interest of the administration. Respondent No.1 has also given elaborate reason of the transfer of the Applicant from Cuttack Bench to Mumbai Bench of the I.T.A.T. Law is well settled that in a matter of transfer the scope of interference of the Tribunal is very limited; because the authorities are competent to decide who should be posted where. In the said premises, we are not inclined to admit this Original Application and this Original Application is accordingly dismissed at the stage of admission being devoid of any merit; by leaving the parties to bear their own costs.

(B.N.SOM)

Vice-Chairman

(MANORANJAN MOHANTY)

Member (Judicial)