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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 654 OF 2006
CUTTACK, this the 18th day of September, 2006.

SURENDRA NATH SINGH APPLICANTS
Versus
UNION OF INDIA & ORS. RESPONDENTS

(FOR INSTRUCTIONS)

1. Whether it be referred to the reporters or not? *jm*
2. Whether it be circulated to all the Benches of the CAT, or not? *jm*

BBM
(B.B.MISHRA)
MEMBER (ADMN.)

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CENTRAL ADMINISTRATIVE TRIBUNAL CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 654 of 2005
Cuttack, this the 18th day of September, 2006.

C O R A M:-

THE HON'BLE MR.B.B.MISHRA, MEMBER(ADMN.)

Shri Surendranath Singh,
Aged about 47 years,
S/o. Shri Jadunath Singh,
At/Po: L 264 Baramunda Housing Colony,
PO/PS/Munsif: Bhubaneswar,
Dist: Khurda.

.... APPLICANT.

BY legal practitioner: Mr.J.K.Rath, Advocate.

-VERSUS-

1. Union of India, represented through its Secretary, Ministry of Home Affairs, New Delhi.
2. Registrar General and Census Commissioner of India,
2-A Manasingh Road, New Delhi-110 011.
3. Deputy Director,
Director of Census Operation, Orissa,
Janpath, Unit-IX, Bhubaneswar,
Dist. Khurda.

.... RESPONDENTS

By legal practitioner Mr.U.B.Mohapatra, SSC.

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ORDER

MR. B.B.MISHRA, MEMBER(ADMINISTRATIVE):

Heard Mr. J.K. Rath, Learned Counsel appearing for the Applicant and Mr. U.B. Mohapatra, Learned Senior Standing Counsel, for the Union of India (on whom a copy of this Original Application has already been served) and went through the materials placed on record.

2. Facts of the matter are that pursuant to a Circular under Annexure-A/1 dated 23rd December, 2003 issued by the Deputy Director, Census Operation, Orissa, Bhubaneswar inviting applications from the suitable officials of Central/State Government to fill up the post of 1(one) post of Draftsman, 1(on) post of Hindi Translator Gr.II and 9(nine) posts of Compiler, the Applicant an employee of Oil Orissa Limited, a Public Sector undertaking of the State of Orissa, was selected under Annexure-A/2 dated 15th June, 2004. He joined as Compiler on 21-06-2004, on deputation basis initially for a period of one year. As it appears from order under Annexure-A/5 dated 10th August, 2006, deputation period of the Applicant was extended till 31-08-2006. Thereafter, under Annexure-A/6 dated 31-08-2006, he having been repatriated to his parent

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Department, has approached this Tribunal in the present Original Application filed under Section 19 of the Administrative Tribunals Act, 1985 praying for the following relief:-

“to direct the Opposite Parties to allow the Petitioner to continue for full term of one year from 20-06-2006 and since posts are available under the Opposite Parties 2 and 3 to absorb the petitioner has recommended for permanent absorption of the petitioner under the Opposite Parties.”

3. By way of interim relief he has prayed that pending final decision on the Original Application the order under Annexure-A/6 be stayed with direction to the opposite Parties to allow him to continue in the post.

4. In support of the prayer of the Applicant, learned Counsel appearing for the Applicant has submitted that as the Applicant was selected and appointed against a sanctioned post of the Department and as he has already submitted his willingness to be absorbed under Annexure-A/4, there is no reason not to allow him to take permanent absorption. Further it has been submitted that instead of repatriating him on 31-08-2006 he should have been allowed to continue at least for one year with effect from 26-06-2006. Therefore,

he has prayed that since the order under Annexure-A/6 was bad in law, till a decision is taken in the matter, the Applicant shall be permitted to continue in the post, in question. On the other hand, Learned Senior Standing Counsel appearing for the Respondents has vehemently opposed the prayer of the Applicant on the ground that a deputationist has no right to claim continuance in the borrowing department and that he having accepted the terms and conditions put in the circular under Annexure-A/1 and the initial order of selection under Annexure-A/2, the Applicant is estopped under law to claim other than what has been intimated to him.

5. Having given thought to the arguments advanced by the parties, I record that Government of India issued instructions codifying the manner of filling up of any post on deputation basis, lying vacant in Government of India offices. No where in the pleadings it has been stated by the Applicant that any of the instructions on subject has been given go bye in the case of the Applicant. As to whether a Government servant has any right to claim to continue on deputation basis or of that matter absorption, has received consideration of the Hon'ble Supreme Court of India, Hon'ble High Courts and of this Tribunal on many occasions and it

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would suffice to quote some of the decisions dealing with the subject matter of this Original Application and they are as under:-

1. AIR 1990 SUPREME COURT 1132 – Ratilal B. Soni and others VRS. State of Gujarat and others:

“The appellants being on deputation they could be reverted to their parent cadre at any time and they do not get any right to be absorbed on the deputation post. We see no infirmity in the judgment of the High Court and as such we dismiss the appeal”.

3. VOLUME-146 2000 (4) SLR-609 Kunal Nanda VRS. Union of India and Another:

“It is well settled that unless the claim of the deputations for permanent absorption in the department where he works on deputation is based upon any statutory Rule Regulation or Order having the force of law, a deputationist cannot assert and succeed in any such claim for absorption. The basic principle under lying deputation itself is that the person concerned can always and at any time be repatriated to his parent department to serve in his substantive position therein at the instance of either of the departments and there is no vested right in such a person to continue for long on deputation or get absorbed in the department to which he had gone on deputation”.

4. VOLUME 183 2005 (I) SLR-629(HC)-Gurinder Pal Singh and others VRS. State of Punjab and others:

“12. In service jurisprudence, “deputation” is described as an assignment of an employee of one department or cadre to another department or cadre. The necessity for sending on deputation arises in

“public interest” to meet the exigencies of “public service”. The concept of deputation is based upon consent and voluntary decision of the employer to lend the services of his employee, corresponding acceptance of such service by the borrowing employer and the consent of the employee to goon deputation. A deputation subsists so long as the parties to this tripartite arrangement do not abrogate it. However, if any one of the parties repudiate the agreement, the other two have no legally enforceable right to insist upon continuance of the deputation...”

“Deputation per se being a contractually made ad hoc arrangement, seldom confers any right upon a deputationist, either for completion of the term of deputation or regularization of such stop gap arrangement”.

This was also the view of the Tribunal, Madras Bench rendered in the case of **V.Ramakrishnan vrs. Union of India and others - 2005 (2) ATJ590.**

6. In the light of the above, *prima facie* case having not been found out, I am not inclined to issue notice to the Respondents calling upon them to file counter. Hence this Original Application stands dismissed by leaving the parties to bear their own costs.

7. Send copies of this order along with copies of the O.A. to the Respondents and free copies of this order be given to learned Counsel appearing for both sides.

(B.B.MISHRA)
MEMBER(ADMINISTRATIVE)