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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 824 OF 2002

Cuttack, this the 5th day of February, 2003.

K.N. RAO.

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APPLICANT.

VRS.

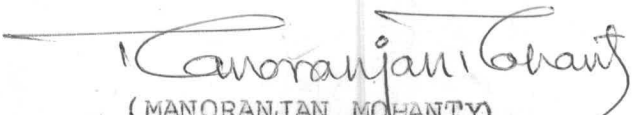
UNION OF INDIA & ORS.

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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.

  
(MANORANJAN MOHANTY)  
MEMBER (JUDICIAL) 05/02/2003

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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH; CUTTACK.

ORIGINAL APPLICATION NO.824 OF 2002  
Cuttack, this the 5th day of February, 2003.

C O R A M

THE HONOURABLE MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL).

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SHRI K.N. RAO, Aged about 57 years,  
S/o. Late K. Appa Rao,  
A permanent resident of plot No. 535,  
Mahanadivihar, Cuttack-4, at present  
continuing as Senior Private Secretary,  
Income Tax Appellate Tribunal, Link Road,  
C U T T A C K-12.

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APPLICANT.

By legal practitioner:- Mr. D.P. Dhalsamant, Advocate.

:VERSUS:

1. Union of India represented through  
its President Income Tax Appellate  
Tribunal, Central Govt. Offices Building,  
4th floor, Maharshi Karve Marg,  
MUMBAI-400 020.
2. Deputy Registrar,  
Income Tax Appellate Tribunal,  
Central Govt. Offices Building,  
4th floor, Maharshi Karve Marg,  
Mumbai-400 020.
3. Assistant Registrar,  
Income Tax Appellate Tribunal,  
Near Nishamani Hall,  
Link Road, Cuttack-12.

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RESPONDENTS.

By legal practitioner:- Mr. A.K. Bose,  
Senior Standing Counsel (Central).

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O R D E R

(ORAL)

MR. MAN CRANJAN MOHANTY, MEMBER(JUDICIAL) :-

Applicant, the sole regular Senior private Secretary of the Income-tax Appellate Tribunal, stationed at Cuttack, having faced an order of transfer under Annexure-1 dated 12-09-2002 to Mumbai Bench of the Income-Tax Appellate Tribunal has filed this Original Application Under Section 19 of the Administrative Tribunals Act, 1985. He has pointed out several of his difficulties/personal inconveniences and has also raised a point that in order to accommodate somebody else, on deputation basis, he has been disturbed from Cuttack. He has also raised the point that the order of transfer under Annexure-1 dated 12-9-2002 is a punitive one (other than administrative reasons/public interest) on the face of the averments made in the counter; because on the basis of certain allegations he has been asked to face the transfer without making any enquiry into the matter or giving him adequate opportunity to have his say in the matter. It has further been averred that since the transfer has been made frequently, at irregular intervals, the same is illegal in view of the decisions of the Hon'ble Apex Court of India rendered in the case of B. VARADHA RAO VRS. STATE OF KARNATAKA (reported in AIR 1986 SC 1955) wherein it has been observed as follows:-

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"One cannot but deprecate that frequent, unscheduled and unreasonable transfers, can uproot a family, cause irreparable harm to a Government servant and drive him to desperation. It disrupts the education of his children and leads to numerous other complications and problems and results in hardship and demoralisation. It, therefore, follows that the policy of transfer should be reasonable and fair and should apply to everybody equally".


The Applicant has also pointed out that while persons have been kept in one station for years together, he has been singled out time and again; and, stating so, it has been pointed out in his notes of submission that since the order of transfer is silent with regard to "administrative reasons"/"public interest", the plea as taken by the Respondents in the counter is an after thought and, therefore, the Respondents are estopped under law/various judicial pronouncements of the Hon'ble Apex Court of India to take such a plea in the counter purportedly to harass the Applicant. He has, therefore, prayed for quashing of the order of transfer under Annexure-1 dated 12.9.2002.

2. In the counter filed by the Respondents, it has been pointed out that the transfer order has been issued following the administrative decision taken in the public interest and, that hence, this Tribunal should not interfere in the order of transfer as it would tantamount to interfering in the day-to-day administration.

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3. Transfer being an incident of service (especially when the Applicant is holding the post of Senior Private Secretary, having all India transfer liability), the Authorities are competent to redress the grievances of the Applicant. The Hon'ble Apex Court of India, have also, time and again, observed that the Courts/Tribunals should not interfere in the order of transfer. But in view of the peculiar facts and circumstances of the case, this Original Application is disposed of requiring the President of the Income Tax Appellate Tribunal (at Mumbai) to look into the grievances of the Applicant and to reconsider the matter (relating to his ~~transfer~~ from Cuttack to Mumbai) by the end of February, 2003. (Liberty is, however, granted to the Applicant to make a consolidated representation, if he is so advised, within 14-02-2003). Till a decision is taken by the President of Income Tax Appellate Tribunal, the order of transfer under Annexure-1 dated 12-9-2002 shall not be given effect to. No costs.

  
05/02/2003  
(MANORANJAN MOHANTY)  
MEMBER (JUDICIAL)

KNM/CM.