6

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH:CUTTACK

ORIGINAL APPLICATION NOS. 84/2003,151/03,
155/2003,169/2003,170/2003,172/2003,173/03
174/2003 & 175/2003

Cuttack this the 23rd day of May/2003

IN O.A. 84/2003

Jagat Jiban Praharaj ... Applicant(s)

-VERSUS-

Union of India & Others ... Respondent(s)

IN O.A.151/2003

S. Pradhan ... Applicant(s)

-VERSUS-

Union of India & Ors. ... Respondent(s)

IN O.A.155/2003

Nirupama Rath ... Applicant(s)

-VERSUS-

Union of India & Ors. ... Respondent(s)

IN O.A.169/2003

Sunanda Mohanty ... Applicant(s)

-VERSUS-

Union of India & Ors. ... Respondent(s)

IN O.A.170/2003

R.N. Routray ... Applicant(s)

-VERSUS-

Union of India & Ors. ... Respondent(s)

IN O.A.172/2003

Sibanarayan Sahoo ... Applicant(s)

-VERSUS-

Union of India & Ors. ... Respondent(s)

IN O.A. 173/2003

Sarani Bala Mishra ... Applicant(s)

VERSUS

Union of India & Ors. ... Respondent(s)

IN O.A.174/2003

Smt.Minati Samal ... Applicant(s)

VERSUS

Union of India & Ors. ... Respondent(s)

IN O.A.175/2003

Geetarani Devi ... Applicant(s)

VERSUS

Union of India & Ors. ... Respondent(s)

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? Yes

2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? Yes

23/05/03

(M.R. MOHANTY)
MEMBER(JUDICIAL)

(B.N. SOM)
VICE_CHAIRMAN

8

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH:CUTTACK

ORIGINAL APPLICATION NOs. 84/2003, 151/2003,155/2003,169/2003,170/03, 172/2003,173/2003,174/2003 & 175/03

Cuttack this the 23rd day of May/2003

IN O.A.No.84/2003

Sri Jagat Jiban Praharaj, aged about 49 years, Son of late Biswambar Praharaj, T.G.T. (Biology) Kendriya Vidyalaya No. I, Unit-IX, Bhubaneswar, Dist-Khurda

... Applicant

IN O.A.No.151/2003

Sri Satrughna Pradha, aged about 46 years, Son of late Madhaba Pradhan, T.G.T., Mathematics Kendriya Vidyalaya No. I, Unit-IX, Bhubaneswar, Dist-Khurda

... Applicant

IN O.A.No.155/2003

Nirupama Rath, aged about 47 years, D/o.late Jagadish Chandra Rath, Kendriya Vidyalaya, Khurda Road, Jatni, Dist-Khurda

... Applicant

IN O.A.No.169/2003

Smt.Sunanda Mohanty, aged about 43 years, W/o. Rabinarayan Routray, W.E.T.(Girls), Kendriya Vidyalaya, Khurda Road, Jatni, District-Khurda

... Applicant

IN O.A.No.170/2003

Sri Rabinarayan Routray, aged about 47 years, S/o. late Gangadhar Rout, P.E.T. Kendriya Vidyalaya, Khurda Road, Jatni, Dist-Khurda

... Applicant

IN O.A.No.172/2003

Sibanarayan Sahu, aged about 45 years, S/o.Dr. Babaji Charana Sahu, Kendriya Vidyalaya No.2(CRPF) Bhubaneswar, Dist-Khurda

... Applicant

IN O.A. NO.173/2003

Sarani Bala Mishra, aged about 45 years, W/o. Bala Chandra Mishra, Primary Teacher, Kendriya Vidyalaya, Khurda Road, At/PO/PS-Jatni, Dist-Khurda

... Applicant

IN O.A.NO.174/2003

Minati Samal, aged about 47 years, W/o. Bijaya Kumar Samal, Primary Teacher, Kendriya Vidyalaya, Khurda Road, At-Jatni, Dist-Khurda

... Applicant

IN O.A.NO.175/2003

Geetarani Devi, aged about 46 years, W/o. Sudarsan Padhi, Primary Teacher, Kendriya Vidyalaya, Khurda Road, At/PO/PS-Jatni Dist-Khurda

... Applicant

Advocates for the Applicants M/s.J.M.Mohanty
D.Mohanty,
D.Samal &
K.C.Mishra

M/s.D.N.Mishra
S.K.Panda
S.Swain

M/s.S.K.Kanungo,
G.Singh,M.R.
Moharana,G.Rana

-VERSUS-

1. Union of India represented through its Commissioner, Kendriya Vidyalaya Sangathan, 18, Institutional Area, Saheed Jeet Singh Marg, New Delhi
2. Assistant Commissioner, Kendriya Vidyalaya Sangathan, H.P.7, BDA Colony, Laxmisagar, Bhubaneswar-757006, Dist-Khurda
3. Principal, Kendriya Vidyalaya No.1, Unit-IX, Bhubaneswar, Dist-Khurda
4. Principal, Kendriya Vidyalaya No.2(CRPF) Bhubaneswar, Dist-Khurda
5. Principal, Kendriya Vidyalaya, Khurda Road, At-Jatni District-Khurda

... Respondents (in all the OAs)

By the Advocates (in all the OAs) Mr.Ashok Mohanty
Mr.S.P.Nayak

10

ORDER

MR.B.N.SOM, VICE-CHAIRMAN : In all the above mentioned nine Original Applications the facts and circumstances, the cause of action and the points to be decided being one and the same, we are inclined to pass a common order, the ratio of which will be applicable in respect of each of the nine OAs. For the purpose of convenience, we, in the instant common order, deal with O.A. No.83/2003, by referring to the facts and circumstances, as enumerated therein.

2. Applicant (Shri Jagat Jiban Praharaj), a Trained Graduate Teacher (in short T.G.T.) (Biology) of Kendriya Vidyalaya (in short K.V.) No.1, Bhubaneswar, in this Original Application under Section 19 of the Administrative Tribunals Act, 1985, has assailed the decision taken by the Respondents-Department in assigning a common Code (Code No.097) in respect of KVs, Bhubaneswar, Mancheswar, Khurda and Cuttack. He has, accordingly prayed to quash the station seniority list circulated by the Respondents under Annexure-5. It is his further prayer that this Tribunal may be pleased to direct the Respondents-Department to take into account his station seniority with effect from the date he joined the present place of posting.

2. The facts in nut shell are as follows.

The applicant started his career in K.V. with effect from 2.8.1974 at Balasore. On his promotion as T.G.T., he was posted to K.V., Malkapuram (Vishakpatnam) and then to Khurda Road in 1980. It was only in June, 2001, he was transferred, at his request, to K.V. No.1, Bhubaneswar. It is also admitted that two KVs at Bhubaneswar, one at

Mancheswar, one at Cuttack and one at Khurda Road were treated as separate stations, having been assigned separate Code Nos. (087 - Bhubaneswar & Mancheswar, 096 - Cuttack and 104 - Khurda Road). By virtue of K.V. Sangathan letter No.F.1-1/2003-2004/KVS(Estt.III) dated 14.8.2002 (Annexure-5), the Respondents published revised station Code in respect of K.V.No.1(Unit-IX), Bhubaneswar and K.V.No.2(C.R.P.F.), Bhubaneswar, Cuttack, Khurda Road and Mancheswar and clubbed all the KVs in these placed under one Station Code - 097 and directed that all the teaching and non-teaching staff of the KVs to register their requests for transfer for the Accademic Year, 2003-2004 in terms of the changed station code. On receipt of this letter/circular, the applicant represented to Respondents-Department praying therein not to treat his station seniority at Bhubaneswar "retrospectively" (i.e., from the date he joined at Khurda Road) so as to disturb him during 2003-2004, on the ground that he has been transferred to Bhubaneswar (K.V.No.1) from Khurda Road at his own request for the education of his daughter, who is physically handicapped. He also urged that Cuttack, Bhubaneswar, Mancheswar and Khurda Road are different towns/cities and the benefits of H.R.A. and C.C.A. as admissible either at Cuttack or at Bhubaneswar are not available at Khurda Road. He further pointed out that because of this reason K.V., Cuttack and K.V., Charbatia and/or K.V.Gopalpur and K.V.Berhampur which are neighbouring towns/cities have not been clubbed up. He further submitted that as per the terms and guidelines

regulating transfers, a station has been defined as "any place or a group of places within one urban agglomeration". These cities, viz., Bhubaneswar, Cuttack, Khurda, the applicant has alleged, do not fall within the same urban conglomeration. The applicant has, therefore alleged that as the new Station Code No. assigned in respect of the said cities/towns is not in conformity with the defination of station, as stipulated in the guidelines, the letter/circular dated 14.8.2002 (Annexure-5) is liable to be quashed being fraught with non application of mind.

3. The Respondents-Department, by opposing the prayer of the applicant, have prayed for dismissal of this Original Application. They have submitted that the applicant was declared surplus on the basis of service rendered by him in the KVs, coming within one station Code of Bhubaneswar, for the purpose of redeployment of staff when such surplus staff could not be adjusted within that station. In other words, the Respondents have admitted that they have taken into account the length of service rendered by the applicant both at Khurda Road and Bhubaneswar. Respondents have also explained the rationale for clubbing these three stations into one station, which in their opinion, is to bring uniformity in the size and extent of a station on all India basis. They have further pointed out that because of assignment of indepdndent station status in respect of these three places, which are in the close proximity to each other, some members of the staff are

able to secure posting at nearby places and thereby deriving unintended benefits at the cost of other employees, who belong to these places, but are posted far away. As the cities/towns of Bhubaneswar, Cuttack, Mancheswar and Khurda Road are situated in neighbouring areas, living facilities being almost similar, the Respondents have decided to combine/merge or agglomerate these places into one station for the purpose of transfer. On the question of whether combining/merging three stations into one station will have adverse effect on some of the employees serving in the station(s) with higher rate of allowances (as KVs situated in some of these places where the higher rate of allowances are admissible and in some places lower rate of allowances are admissible), the Respondents have submitted that even before this decision came into being, the incumbents were liable to be transferred from one station with higher rate of allowances to another station with lower rate of allowances and vice versa; and therefore, it is irrational on the part of the applicant to say that by introducing a common Station Code (097) any prejudice or any adverse consequence is being caused to anyone. Respondents have also refuted the claim of the applicant that his station seniority should be counted w.e.f. 1.7.2001 when he joined at K.V.No. 1, Bhubaneswar. They have laid great emphasis on the fact that the applicant having served in and around Bhubaneswar for last 23 years, the claim that his station seniority should be taken into account w.e.f.

1.7.2001

1.7.2001 when he joined at K.V.No.I, Bhubaneswar is devoid of merit. Basing on these grounds, the Respondents have opposed the prayer of the applicant, as made in this Original Application.

4. We have heard the learned counsel for the applicants appearing in all these nine Original Applications and the learned counsel appearing on behalf of Kendriya Vidyalaya Sangathan separately and also perused the materials available on record, including the circulars issued by the Respondents-Department from time to time, regarding annual transfer policy as well as the transfer guidelines followed by them.

5. The crux of the matter revolves round the point whether assignment of a common station code by merging Bhubaneswar, Mancheswar, Khurda Road and Cuttack into one station code for the purpose of transfer from the year 2003-2004 is valid in the eyes of law. The other issue raised in this application is whether the letter/circular dated 14.8.2002 (Annexure-5) merging three stations into one station code will have retrospective or prospective application for the purpose of counting station seniority of the employees who are in position in the KVs in these stations as on 14.8.2002.

6. According to the terms and conditions of service of K.V. employees, all carry an all India transfer liability depending upon the administrative exigencies , organisational reasons or on request. It has been notified in the guidelines that "The dominant consideration in effecting transfers will be administrative exigencies including

the need to maintain continuity, uninterrupted accademic schedule and quality of teaching and to that extent individual's interest/request shall be subservient". It has also been stated therein that the maximum period of stay at a station shall generally not exceed 3 years. They are, however, liable to be transferred even before completion of the aforesaid period depending upon organisational interest or administrative exigencies etc. They have also developed a point system for determining entitlement of an employee for transfer and those entitlements points have been notified also. The transfer guidelines also provide for transfer on request as well as on mutual basis.

7. The Respondents in their counter and their learned counsel, during the oral arguments have dilated on the background, which led to clubbing these three stations into one station code. The learned counsel for the Respondents drew our attention to the transfer guidelines and stated that for administrative reasons, the Respondents groupped KVs located in and around the metropolitian cities under one station code. For example, Delhi Station Code No.213 includes the KVs situated in Jharodakalan, Gurgaon, Ghaziabad, Noida, Faridabad and Hindon, which are the cities/towns in neighbouring districts of Delhi. Similarly, the Station Code Kolkata N o.153 constitutes the KVs situated in Barrackpore, Ichhapore, Kanchrapara and Kakinara etc. The Station Code No.024 of Bangalore covers KVs not only in the main city, but also the KVs situated far and away from Bangalore city, viz., Jalahalli,

Yelahanka etc. Similar is the case with Chennai bearing Station Code No.382, which encompases the KVs situated at Avadi, Tambaram and Minambakkam etc.(outside the metropolish of Chennai). As regards (Station Code No.131) the Respondents have clubbed KVs located in Thane, Panvel and Ambranath into one station code. The learned counsel for the Respondents thus submitted that compared to the above conglomeration of KVs of the metros, the composition of Bhubaneswar Station Code No.097 comprising Bhubaneswar, Mancheswar (which is nothing but an appendix of Bhubaneswar) Cuttack and Khurda Road can by no stretch of imagination be called unreasonable or unintelligible classification. In fact out of 5 KVs in these stations, already 3 KVs, viz., KV No.1 and 2 at Bhubaneswar and 1 at Mancheswar are having a common code.

8. We have given our best thoughts to the issues raised in this O.A., we have closely analysed the facts placed before us and we see lot of force in the arguments of the Respondents. We also agree that the objective behind merging these four places into one code can hardly be faulted. Thus keeping all these factors in view as also the objectives sought to be achieved by the Respondents in reclassifying places in and around Bhubaneswar into a common station code cannot be called in question nor be held as irrational. In the transfer guidelines, the word 'Station' has been defined to mean " any place or a group of places within the urban agglomeration". It is the case of the applicant that Cuttack and Khurda do not form part of urban conglomeration of Bhubaneswar. In making this statement,

17

the applicants have committed an error because the definition of station given out as a group of places within any urban agglomeration is not succeptible to any narrow meaning/connotation. The disctionary meaning of the word 'Agglomeration', according to Chambers English Dictionary, is "collection into a mass; to grow into a mass; culster, a volcanic rock containing irregular fragments". In other words, it means that for forming a station the Respondents have reserved their right to make a bunch of the urban areas. As the cities of Bhubaneswar including Mancheswar and Cuttack as also Khurda Road are urban areas which have been put together, the Respondents have made a station by groupping those urban areas into a common station code No.097, as per the definition of the term "Station". This is the principle that we find the Respondents have adopted in groupping the stations in metro areas, like, Delhi, Kolkata, Bangalore, Mumbai and Chennai. We are satisfied that making the new station by grouping four places into one and assigning a common station code (Bhubaneswar-097) is in conformity with the definition of station as given out in the transfer guidelines. We also see no justifiable reason to interfere in the matter.

9. With regard to the second issue raised by the applicant as to whether the effect of creating common station code - 097 will have the retrospective or prospective application for the purpose of counting station seniority of the employees, the answer to this is as follows:

The applicant has demanded that his seniority should be counted w.e.f. 1.7.2001, the date when he joined

at K.V.No.I, Bhubaneswar. His argument is that he joined at Khurda Road in 1980 (when that was an independent station bearing Code No.104) and was transferred to another station K.V.No.I at Bhubaneswar in July, 2001(which was also an independent station bearing code No.087). He has also stated that for the purpose of determining station seniority the crucial date should be 1.7.2001 and not 1980, as has been taken into account by the Respondents. His plea is that since there is no existence of Khurda Road as an independent station code any longer, the Respondents cannot take into account his service in that station for deciding his station seniority in respect of the newly assigned station code 097. Any such action, as stated by him, will be bad in law. We have examined carefully the arguments advanced by the applicant vis-a-vis the objective of redefining/reclassifying three independent stations into a common station code. To us, the objective was to prevent loopholes in the matter of postings and transfers of employees from these places to outside and vice versa. The objective is to ensure equal opportunity for the sake of efficiency in the administration to all the employees, who hail from these places to get a chance to enjoy posting in near their place of residence and not to allow vested interests to grow. In the instant case, the applicant himself has spent over 23 years of his service career in between Khurda Road and Bhubaneswar, his date of joining at Khurda Road being in the year 1980. If his plea is accepted that the Respondents should reckon his station seniority with effect from the date he joined at K.V.No.I (Bhubaneswar),

then he would get further lease of life in that place. It is also to be noted that he was shifted from Khurda Road to Bhubaneswar on his own request and not on the ground of administrative exigencies. So, his application is centering round protecting his personal interest rather than to fight against any injustice or contravention of rules and regulations. The applicant is well-advised to recognise that the Respondents have, by their policy decision dated 14.8.2002 only merged three stations into one station and thereby they have not given anyone a new lease of life in the matter of stay in their respective place of posting. All have been given a new station identity. All the employees in the erstwhile three stations have been merged into the new station with all their assets and liabilities, like, when the two companies merge, they merge with their respective assets and liabilities to create a new existence. The effect of the circular/letter dated 14.8.2002 is that all the employees posted in these places can only apply for their postings outside Bhubaneswar station and by Bhubaneswar station, it would mean, any of the KVs in Bhubaneswar, Mancheswar, Khurda and Cuttack. And those who want to come to this area from outside can ask for Bhubaneswar and posting to Bhubaneswar would mean further posting to one of the KVs located at Cuttack/ Bhubaneswar/Khurda by the controlling authority at Bhubaneswar. Further, for the purpose of reckoning their seniority, it is logical that they shall have to disclose from what date they have been working at what places. Surely, as in the case of the applicant, he will declare that he was working

at K.V., Khurda Road from 1980 and at K.V.No.1, Bhubaneswar from 1.7.2001. In other words, those who are working in any of the KVs under Station Code 097 will require to disclose their period of stay in any of the places bearing Code Nos. 097, 096, 104 before and after 14.8.2002. This being a matter of fact, the question of retrospective or prospective application of the order dated 14.8.2002 does not arise.

In the end, we would like to observe that had the Respondents clearly postulated their intentions in creating a common station code under Bhubaneswar and the principles of determining station seniority of the employees of these areas, who earlier had worked under separate station code in their places, all these litigations could have been avoided. The Respondents could have, by dint of a separate letter, informed all the employees on the merger of three independent stations into a common station code with a view to offering equal transfer facility to all the employees and that by merging the erstwhile three stations into one common code, the employees have been granted a new identity without obliterating their past services and liabilities. In the circumstances, we see no merit in the claim of the applicant for reckoning his station seniority with effect from the date when he joined at K.V.No.I, Bhubaneswar nor do we find any discrimination or unreasonableness in the action of the Respondents in redefining/reclassifying the station code Bhubaneswar as 097.

10. In the aforestated terms, all these nine OAs are disposed of. No costs.

23/05/2003

(M.R.MOHANTY)
MEMBER(JUDICIAL)

(B.N. SOM)
VICE-CHAIRMAN

Bjy