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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

D.A.NO. 199 of 2008
Cuttack, this the 06th day of August, 2008

Dillip Kumar Moharana Applicant
Versus
Union of India & Ors. Respondents

1. Whether it be referred to the reporters or not?
2. Whether it be circulated to all the Benches of the Tribunal?

(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)

(C.R.MOHAPATRA)
MEMBER (ADMN.)

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C O R A M:

THE HON'BLE MR.JUSTICE K.THANKAPPAN, MEMBER (J)
A N D
THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (A)

Dillip Kumar Moharana, aged about 45 years, S/o.Narayan Mohapatra,
At/PO/PS. Ghasipura, Dist. Keonjhar, at present working as Sub-
Postmaster, At-Salapada Sub Post Office, PS. Ghasipura, Dist. Keonjhar.

..... Applicant

By legal practitioner: M/s. Kalpataru Panigrahi, S.R.Debata,
Counsel.

-Versus-

1. Union of India represented by Director General of Posts, Dak Bhawan, New Delhi.
2. Postmaster General, Sambalpur Regon, Town/Dist.Sambalpur.
3. Superintendent of Post Offices, Keonjhar Division, Keonjhargarh, Town/Dist.Keonjhar.
4. Pranaballav Panda of Village-Suanpada, PO. Badapadana, PS. Ramachandrapur, Via. Anandapur, Dist. Keonjhar at present working as Sub-Postmaster, At-Ghatagaon Sub Post Office (presently on leave).
5. Trilochan Sahoo, S/o.Late Harihar Sahoo, At/Po. Belabahali, PS. Ghasipur, Dist. Keonjhar.

.....Respondents

By legal practitioner: Mr. P.R.J.Dash, ASC.

*Mr. D.P. Dhalavanta, Counsel
for Res. No.5.*

ORDER

MR. C.R.MOHAPATRA, MEMBER(ADMN.):

Applicant is an employee of the Postal Department. He is presently working as Sub Postmaster of Salpada Sub Post Office. Apprehending his dislocation in the rotational transfer of 2007-08, he submitted representation to the Postmaster General, Sambalpur Region, Sambalpur requesting for second time posting at Ghasipura so as to continue the existing treatment ailments such as Cardiac, Neurological disorder and Skin etc. According to Applicant second time posting is possible only by invoking powers of relaxation conferred under Annexure-6 dated 22nd September, 2005. But before he could receive any reply on his request made under Annexure-7 dated 07.02.2007 and Annexure-8 18.01.2008 and 22.01.2008, the Applicant was transferred and posted vide order under Annexure-10 dated 24.03.2008 as SPM, AAP College Sub Post Office. Soon after the aforesaid order of transfer and posting dated 24.03.2008, he was communicated vide letter under Annexure-9 that his request for second time posting at Ghasipura SO in relaxation of the existing



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Rules was considered and rejected by the RO. Being aggrieved by the letter of rejection under Annexure-9 and the order of transfer under Annexure-10, he has approached this Tribunal in the present Original Application seeking direction to the Respondents to allow him to continue in his present place of posting by quashing the letter under Annexure-9 and order under Annexure-10.

2. Respondent-Department has filed their counter opposing the prayers of the Applicant. No counter has been filed by the Intervener Shri Trilochan Sahoo who has been posted in place of the Applicant. However, by filing MA No. 432 of 2008, he sought for vacation of the interim order passed by this Tribunal dated 19th May, 2008 and continues till date.

3. Heard Mr. Kalpataru Panigrahi, Learned Counsel for the Applicant, Mr. P. R. J. Dash Learned Additional Standing Counsel for the Respondent-Department and Mr. D. P. Dhalsamant, Learned Counsel for the Intervener Respondent and perused the materials placed on record.

4. Besides arguing various points in regard to non-sustainability of the order of transfer under Annexure-10, Learned Counsel for the Applicant has

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argued that the order of rejection under Annexure-9 is also not sustainable as the grievance of applicant has neither been considered by the competent authority to whom it has been addressed nor any reason is ascribed as to why the authority refused to exercise the power of relaxation conferred on him; especially when the request of applicant was based on medical grounds. Learned Counsel for the Respondent-Department, has pointed out that in view of the reasons given in the counter, it is not possible to accede to the request of the Applicant. Learned Counsel appearing for the Intervener submitted that in the meantime the Intervener-Respondents upon being relieved has reported to the place of his posting at Ghasipura.

5. Be that as it may, medical report filed by the Applicant establishes that due to illness, the Applicant is under constant treatment. It is also not in dispute that the Applicant is holding a transferable post and his transfers are ordered after completion of his tenure. At the same time, personal difficulties one would face in case he is disturbed, is a matter to be considered by the competent authorities. On perusal of the order under Annexure-6 dated 22nd

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September, 2005 it is established that though there is a prohibition of second posting in a particular place yet power has been vested with the authority to post an employee second time if such posting is warranted by exceptional administrative exigencies. On reading of the contents of the letter under Annexure-9 dated 10.03.2008, it is established that the order of the Regional Office has only been communicated by the Supdt. Of Post Offices, Keonjhar. Therefore, it is not correct to state that the representation of the applicant has been rejected by any other authority not vested with the power to do so. At the same time the argument advanced by Learned Counsel for the Applicant that the rejection letter does not contain any reason is found to be correct. It is trite law that even in respect of administrative orders, giving of reasons is one of the fundamentals of good administration and failure to give reasons amounts to denial of Justice. Rejection order specifying reasons would alone lead the affected party to know as to why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made (Ref: **Chairman and Managing Director, United Commercial Bank and**

Others v P.C.Kakkar, 2003 (4) SCC 364). It has also been held by the Hon'ble Apex Court in the case of **Mahavir Prasad Vrs. State of UP**, AIR 1970 SC 1302 that recording of reasons in support of a decision by a quasi judicial authority is obligatory, as it ensures that the decision is reached according to law and is not a result of caprice, whim or fancy or reached on ground of policy or expediency. In the light of the decisions stated above, we find substantial force in the contention of the Learned Counsel for the Applicant that as the letter of rejection under Annexure-9 as also Annexure-5 do not contain any reason; the same is liable to be set aside.

6. In view of the above, without expressing any opinion on the merits of the matter, we set aside the letter communicating the decision of the RD under Annexure-9 dated 10.03.2008. Respondents No.2 is directed to reconsider the grievance of the Applicant and pass a reasoned and speaking order within a period of 30 (thirty) days from the date of receipt of a Copy of this order. Till a decision is taken and communicated to the Applicant, the stay orders of this Tribunal dated 19.05.2008 shall remain in force.

(L)

7. In the result, this OA stands disposed of with the observation and direction made above. No costs.

(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)

(C.R.MOHAPATRA)
MEMBER (ADMN.)

KNM/PS

A hand-drawn graph on lined paper. It features two intersecting lines. One line is a straight line with a negative slope, starting from the top-left and ending at the bottom-right. The other line is a curve that is concave down, starting from the top-left, dipping slightly, and then rising towards the bottom-right. The two lines intersect in the middle-right area of the graph.