

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

O. A. No. 260/00761 OF 2016
Cuttack, this the 1st day of November, 2016

**CORAM
HON'BLE MR. A.K. PATNAIK, MEMBER (J)**

Sri Surya Kanta Sahoo, aged about 28 years, S/o. Gadadhar Sahoo, At/PO-Bangursingh, Via-Hindol Road, Dist-Dhenkanal presently workings as P.A. Angul HPO under order of transfer of Khamar S.O.

...Applicant

(By the Advocate-M/s. P.R.J. Dash)

-VERSUS-

Union of India Represented through

1. Secretary-cum-Director General of Posts, Dak Bhawan, Sansad Marg, New Delhi-110116.
2. Chief Post Master General, Odisha Circle, Bhubaneswar, Dist-Khurda-751001.
3. Post Master General, Sambalpur Region At/Po/Dist-Sambalpur-768001.
4. Superintendent of Post Offices, Dhenkanal Division, At/PO/Dist-Dhenkanal-759001.

...Respondents

By the Advocate- Mr. C.M. Singh

O R D E R (ORAL)

A.K.PATNAIK, MEMBER (JUDL.):

Heard Mr. P.R.J. Dash, Ld. Counsel appearing for the applicant and Mr. C.M. Singh, Ld. Addl. Central Govt. Standing Counsel appearing for the Respondents, on whom a copy of this O.A. has already been served, and perused the materials placed on record.

2. This O.A. has been filed by the applicants under Section 19 of the Administrative Tribunals Act, 1985 challenging the illegal action of Respondent No.4 in transferring applicant who is a physically handicap person after revocation of his suspension. The applicant is solely aggrieved with the order transfer/posting him at Khamar S.O., which is 75 Kms away from the present place of posting and not being aggrieved with the order of revocation. The applicant who is locomotor PH has been

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posted in a place, where the minimum facility for PH person is not available and the same is violative of the guidelines issued by DOP&T dated 31.03.2014.

3. Mr. Dash submitted that while the applicant was continuing as Postal Assistant, Angul H.O. he was placed under suspension on 02.06.2016 and the Respondent No.4 issued a chargesheet under Rule-14 of CCS (CC&A) Rules, 1965 vide chargesheet dated 22.08.2016 which has been annexed as Annexure-A/4. However, the authorities revoked the order of suspension on 29.08.2016 but very strangely instead of posting him to the original place of posting i.e., Angul HO where he had been placed under suspension, the Respondents have posted him as P.A. Khamar SO. Mr. Dash submitted that the Rules provide that an employee on his revocation of suspension should be posted in his original place where he was placed under suspension. Mr. Dash also fairly submitted that transfer is an incident of service where the Respondents can transfer him in any place. However, in the instant case, applicant being a PH category, his transfer is violative of the guidelines issued vide O.M. dated 31.03.2014 by the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training (DOP&T) which has been annexed at Annexure-A/9.

4. Mr. Singh vehemently opposed the very maintainability of this O.A. by stating that the applicant in his representation made to different authorities on different dates has never raised this point and therefore, in all practical purposes no departmental remedy has been availed by the applicant. Therefore, this O.A. is liable to be dismissed being hit under Section 20 of the AT Act of Rules and practice.

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5. However, on being questioned Mr. Dash fairly submitted that it is an inadvertent mistake on the part of the applicant and prayed to grant liberty to the applicant to make a comprehensive representation to Respondent No.2 with copy to Respondent Nos.3 & 4 within a period of 10 days and a time may be stipulated for disposal of the same.

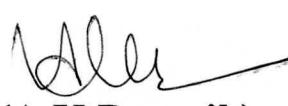
6. I do not think it will prejudice to either of the parties if the O.A. is allowed to be withdrawn with a liberty to the applicant to make a comprehensive representation to Respondent No.2 with copy to Respondent Nos.3 & 4 within a period of 10 days. Therefore, I allow this O.A. to be withdrawn with a liberty to the applicant to make a comprehensive representation to Respondent No.2 with copy to Respondent Nos.3 & 4 within a period of 10 days ventilating all his grievance by annexing a copy of this order and if any such representation is preferred to the Respondent No.2 within 10 days from today, then Respondent No.2 shall consider and dispose of the same and communicate the result thereof by way of a reasoned and speaking order within a period of 45 days from the date of receipt of the order.

7. Though I have not expressed any opinion on the merits of the matter, still then it is made clear that if after such consideration the grievance of the applicant in his present place of posting on revocation of suspension based on the guidelines issued by the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training (DOP&T) (Annexure-A/9) is found to be genuine, then expeditious steps be taken by the Respondents to redress the grievance of the applicant within a further period of two months from the date of such consideration.

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8. With the aforesaid observation and direction, the O.A. is disposed of at the stage of admission itself. No costs.

9. On the prayer made by Mr. P. R.J. Dash, Ld. Counsel appearing for the applicant, copy of this order, along with paper book, be sent to Respondent Nos.2,3 & 4 by Speed Post for which Mr. Dash undertakes to file the postal requisites by 04.11.2016.


(A.K.Patnaik)
Judicial Member

K.B.

