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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. No. 260/00237 OF 2016

Cuttack, this the 20th day of April, 2016

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

Sri Umakanta Nanda, aged about 57 years, S/o- Late D. Nanda, AtPO- Sohela, Dist-Bargarh, Presently working as postal Assistant (SBCO) (on leave), Sambalpur HO, Dist-Sambalpur.

.....Applicant

By the Advocate(s)-M/s. D.P. Dhalsamant, N.M. Rout.

-Versus-

Union of India, represented through

1. Director General of Posts, Govt. Of India, Ministry of Communications, Department of Posts Dak Bhawan, Sansad Marg, New Delhi-110001.
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, Sambalpur Division, At/PO/Dist. Sambalpur, 768001

.....Respondents

By the Advocate(s)- Mr.M. R. Mohanty

ORDER (ORAL)

A.K.PATNAIK, MEMBER (J):

Heard Mr. D.P. Dhalsamant, Ld. Counsel appearing for the applicant and Mr. M.R. Mohanty, Ld. ACGSC 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 applicant under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief:

“(i) The order of transfer dated 16.03.2016 (Annexure-A/4) and the rejection order communicated by the Respondent No.4 vide order dated 06.04.2016 (Annexure-A/7) be quashed.

(ii) Direction be issued to Respondents to post the applicant to his choice of posting as per option exercised under Annexure-A/2.”

3. Mr. Dhalsamant, Ld. Counsel submitted that due to non-consideration of the case of the applicant for the aforesaid relief, he submitted an exhaustive representation dated 17.03.2016 (Annexure-A/6)

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to Respondent No.3. It has further been submitted by Mr. Dhalsamant that in response to the said representation the Respondents vide order dated 06.04.2016 (Annexure-A/7) rejected the claim of the applicant that "your representation dated 17.03.2016 for consideration of your transfer to Bargarh HO has been considered by the competent authority, but could not be acceded to due to administrative constrains" which is a cryptic order. Hence, the applicant has filed this O.A. with the prayer as aforesaid.

4. Having considered the submissions, perused the records especially the representation dated 17.03.2016(Annexure-A/6) submitted by the applicant vis-à-vis the order of rejection dated 06.04.2016 (Annexure-A/7). I find that the applicant has raised many points in support of his relief but the Respondents turned down the prayer of the applicant in a cryptic order. Progress is achieved when there is good governance and good governance depends on how law is implemented. The word 'consider' is of great significance. The dictionary meaning of the same is 'to think over' 'to regard as' or 'deem to be'. Hence there is a clear connotation to the effect that there must be active application of mind. In other words, the term consider postulates consideration of all relevant aspects of a matter. Thus formation of opinion by the authority should reflect intense application of mind with reference to the points raised and material available on record. The order of the authority itself should reveal such application of mind. The object underlying the rules of natural justice is to prevent miscarriage of justice and secure fair play in action. The expanding horizon of the principles of natural justice provides for requirement to record reasons as it is now regarded as one of the principles of natural justice and it is trite law that even where the requirement to record reasons is expressly or by necessary implication dispensed with, the authority must record reasons for its decision (**Ref. S.N. Mukherjee v. Union of India, AIR 1990 SC 1984**).

5. Since in the instant case rejection of representation appears to be without any reason thereby meeting/answering all the points raised by the applicant in his representation I do not see any reason to keep this matter pending by way of inviting counter. Hence, the order dated 06.04.2016 (Annexure-A/7) is quashed and remitted back this matter before the Respondent No.3 to reconsider the representation dated 17.03.2016

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(Annexure-A/6) and dispose of the same with a reasoned and speaking order to be communicated to the applicant within a period of two months from the date of receipt of copy of this order. I made it clear that, in the event of such consideration if the applicant is found to be entitled to the relief claimed by him then expeditious steps be taken to extend the benefit to him preferably within a further period of three months from such consideration. Though I have not expressed any opinion on the merit of the case, I make it clear that all the points raised in the representation will be kept open for the Respondents for consideration as per the extant rules, regulations and law in force. **I make it clear that so far as the continuance of the applicant as P.A. SBCO Sambalpur H.O is concerned will be maintained till 30.09.2016.**

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

7. On the prayer made by Mr. D.P. Dhalsamant, Ld. Counsel appearing for the applicant, copy of this order, along with paper book, be sent to Respondent No.3 by Speed Post for which Mr. Dhalsamant undertakes to file the postal requisites by 22.04.2016.


(A.K.PATNAIK)
MEMBER(J)

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