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09 MAY 2016

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:
CUTTACK BENCH: CUTTACK.

Original Application No. 260/00 297 of 2016

BETWEEN:

Sanjib Kumar Mishra, aged about 49 year,
Son of late Soubhagya Kumar Mishra,
Presently working as (Inspector Tax Officer)
ITO (IAP) Sambalpur,
At/P.O/Dist:Sambalpur.

... .. Applicant

-Vrs-

1. Union of India,
represented through its Secretary,
Department of Finance,
New Delhi.
2. Principal Chief Commissioner of Income Tax, Orissa,
Aayakar Bhawan, Rajaswa Vihar,
Bhubaneswar-751007,
Dist:Khurda.
3. Commissioner of Incme Tax (Audit),
3rd Floor, Aayakar Bhawan, Annexe,
Rajaswa Vihar, Bhubaneswar
Dist- Khurda.

4. Chidharangan Patra
ITO, Rayagada
Dt - Rayagada.

... .. Respondents

[Signature]

[Signature]

Sanjib Kumar Mishra

ORDER (ORAL)
Dated 17.05.2016

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

Heard Mr. A.Kanungo, Ld. Counsel appearing for the applicant and Mr. P.K.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 with the following prayer:-

“A) Quash the order of transfer under Annexure-4, so far as it relates to the applicant declaring the same illegal, arbitrary, discriminately and violative of the statutory guideline contained in OM dated 28.02.2007 at clause (5) and clause (8) of the Memorandum;

B) Direction and/or directions be issued to the Respondent No.2 to consider the applicant for Assessment Posting in any place, he has opted for and in view of the vacancy existing in Jharsuguda.

C) And other Direction.....”

3. Mr. A.Kanungo, Ld. Counsel for the applicant submitted that due to non- consideration of the case of the applicant for the aforesaid relief as claimed by him, the applicant submitted representation dated 04.05.2016 (Annexure-A/5) to Respondent No.2. It has further been submitted that till date no response has been received by the applicant on his representation. Hence, the applicant has filed this O.A. with the prayer as aforesaid.

4. Since the representation submitted by the applicant is stated to be pending, without entering into the merit of this case, we dispose of this O.A at the stage of admission by directing Respondent No.2 to consider the representation dated 04.05.2016 (Annexure-A/5), if the same is still pending, as per the extant Rule and communicate the result thereof to the applicant by way of a reasoned/speaking order within a period of 02 (two) months from the

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date of receipt of copy of this order. If, after such consideration it is found that the applicant is entitled to the relief claimed by him then the same may be extended to him within a further period of 02 (two) weeks from such consideration. Though we have not expressed any opinion on the merit of the matter, we make it clear that all the points raised in the representation will be kept open for the Respondents to consider the same as per rules, regulations and law in force. However, it is made clear that if in the meantime the said representation has already been disposed of then the result of the same be communicated to the applicant within a period of two weeks from the date of receipt of copy of this order.

5. However, we make it clear that status quo as on date so far as the applicant's continuance is concerned will be maintained and no action in pursuance of notification dated 03.05.2016 (Annexure-A/4) shall be taken by the Respondents for a further period of two weeks from the date of communication of decision to the applicant on his representation.

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. A.Kanungo, Learned Counsel appearing for the applicant, copy of this order, along with paper book, be sent to Respondent No.2 by Speed Post for which he undertakes to file the postal requisites by 20.06.2016.

(R.C.MISRA)
MEMBER (A)

(A.K.PATNAIK)
MEMBER(J)