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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. NO. 413 OF 2012

Cuttack, this the 6th day of December, 2013

CORAM

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

.....

Golekha Chandra Pal,
aged about 49 years,
Son of Late Laxmidhar Pal of Qr. No.PT 13,
Old P&T Colony, Sector-6, Rourkela-76901, Dist. Sundargarh,
Orissa now working as Asst. Postmaster (Savings Bank),
Rourkela Head Post Office under Sundargarh Postal Division of
Sambalpur Postal Region.

.....Applicant

Advocate(s)....M/s. B. Dash, M.R. Das, C. Mohanta

VERSUS

Union of India represented through

1. Director General,
Ministry of Communications,
Department of Posts,
Dak Bhawan, New Delhi-110 001.
2. Chief Postmaster General,
Orissa Circle, Bhubaneswar, Dist. Khurda.
3. The Postmaster General,
Sambalpur Region, Sambalpur, Pin-76801.
4. Director of Postal Services,
Sambalpur Region, Sambalpur-1
5. Senior Superintendent of Post Offices,
Sundargarh Division, Sundargarh, Pin-770001.
6. Postmaster (HSG Gr.I), Rourkela Head Post Office,
Rourkela-769 001.

..... Respondents

Advocate(s).....Mr. S. Barik



ORDER (ORAL)A.K. PATNAIK, MEMBER (JUDL.)

This OA has been filed by the applicant being aggrieved by the order dated 29.3.2012 transferring him from Rourkela Head Post Office to Lathikata Sub Post Office and the order dated 17.5.2012 rejecting his representation in a cryptic order.

2. Respondents have filed their counter opposing the prayer of the Applicant on the ground that transfer being an incidence of service and has been ordered in public interest this OA is liable to be dismissed.

3. Mr.B.Dash, Learned Counsel appearing for the Applicant at the out set drew my attention to the order of rejection dated 17.05.2012 and stated that had the authority taken into consideration all the points raised by him in his representation dated 24.4.2012, he would not have rejected the representation. On the other hand Mr.S.Barik, Learned Additional CGSC appearing for the Respondents objected to the aforesaid contention of Mr.Das on the ground that after filing of counter the order of rejection is redundant and even if no reason has been assigned in the order the same cannot be a ground to quash the order of rejection. Hence, he has prayed for dismissal of this OA.

4. It is a settled proposition of law that even in administrative matters, the reasons should be recorded as it is incumbent upon the authorities to pass a speaking and reasoned order (**Kumari Shrulekha Vidyarthi etc. etc. v. State of U.P. & Ors.**, AIR 1991 SC 537). Further giving of reasons is an essential element of administration of justice. A right to reason is, therefore, an indispensable part of sound system of judicial review (**State of West Bengal v. Atul Krishna Shaw & Anr.**, AIR 1990

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SC 2205). Equally, it is a well settled legal proposition that if initial action is not in consonance with law, subsequent order/proceedings would not sanctify the same. In such a fact situation, the legal maxim "*Sublato fundamento cadit opus*" is applicable, meaning thereby, in case a foundation is removed, the superstructure falls-**Chairman Cum MD Coat India Ltd & Ors v Ananta Saha & Ors** Civil Appeal No. 2958 of 2011 (Arising out of SLP (C) No. 1100 of 2009) dated 06-04-2011.

5. In view of the well settled law, I find no substance in the submission of Mr. Barik. Hence the order of rejection dated 17.5.2012 is hereby quashed and the matter is remitted back to the Respondent No.3 to give reconsideration to the points raised by the applicant in his representation dated 24.4.2012 and communicate the decision taken thereof in a well reasoned order to the Applicant and till such time status quo as of date in so far as relieve of the applicant from his present post/place of posting shall be maintained. In the result, this OA stands allowed to the extent stated above. There shall be no order as to costs.



(A.K. Patnaik)
Member (Judicial)