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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

OA No.589 of 2013
Cuttack, this the 10th day of September, 2013

CORAM
THE HON'BLE MR. A.K. PATNAIK, MEMBER (JUDL.)
THE HON'BLE MR. R. C. MISRA, MEMBER (JUDL.)

.....

Shri Ashok Kumar Satapathy, aged about 48 years, Son of Tribikram Satapathy, Village/Post.Kubedega, Via. Bheden, Dist. Sambalpur presently working as Postal Assistant, Baragarh HO, At/Po/Dist.Sambalpur.

...Applicant

(Advocates: M/s. D.P.Dhalsamant, N.M.Rout)

VERSUS

Union of India Represented through –

1. Director General of Posts, Government of India, Ministry of Communications, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 01.
2. Chief Postmaster General, Odisha Circle, Bhubaneswar, Dist. Khurda-751 01.
3. Postmaster General, Sambalpur Region, At/Po/Dist.Sambalpur-768 001.
4. Superintendent of Post Offices, Sambalpur Division, At/Po/Dist.Sambalpur-768 01.

... Respondents

(Advocate: Mr.P.R.J.Dash)

ORDER

(Oral)

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

The case of the applicant, in gist, is that he initially joined as EDBPM Kubedega BO. He was promoted to Postman cadre in the year ¹⁹⁹⁵~~1995~~ and posted to Brajarajnagar. Thereafter, he was promoted to Postal Assistant and consequently



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posted to Rajborasambar SO in which post he joined on 4.9.2001. After completion of tenure of four years at Rajborasambar, he was transferred to Hirakud in the year 2005. Vide order dated 20.3.2009 on being transferred he joined at Baragarh HO on 14.5.2009. Without changing of his place of posting vide Memo dated 18.5.2009 the applicant was declared as permanent leave reserve postal assistant w.e.f. 1.5.2009 attached to Sambalpur HO establishment. On 16.1.2012 the applicant was made permanent in the cadre of Time scale postal assistant w.e.f. 1.2.2012. In Memo dated 8.1.2013 Respondent No.4 asked to opt the three places of choice for consideration in the event of rotational transfer during 2013. Applicant submitted representation dated 19.1.2013 stating that he is not liable to be transferred during rotational transfer, 2013 as being declared permanent he joined at Bargarh HO only on 1.2.2012 and is yet to complete the tenure as because the leave reserve period cannot be counted towards period of tenure. It is the case of the Applicant that without giving any weightage to the points raised by him in his representation, Respondent No.4 vide Memo dated 3.5.2013 transferred him to Rajborasambar SO against which he submitted representation on 8.5.2013 requesting cancellation of his transfer but the same was rejected and communicated vide letter dated 6.6.2013. Thereafter, he was relieved on 10.6.2013 and submitted representation on 11.6.2013 followed by reminder dated 16.7.2013 to the Respondent No.2 seeking cancellation of his order of transfer and continuing on leave till date. It is in the above context, by filing the instant OA the applicant has prayed to direct the Respondents to allow the applicant to continue to

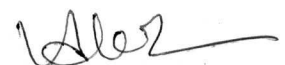
Alor

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work at Baragarh HO till completion of his tenure after quashing the order dated 3.5.2013 in which the applicant was transferred and posted to Rajborasambar SO and the letter dated 6.6.2013 in which the representation submitted against the order of transfer was rejected and intimated to him.

2. Heard Mr.D.P.Dhalsamanta, Learned Counsel appearing for the Applicant and Mr.P.R.J.Dash, Learned Additional CGSC appearing for the Respondents and perused the records including the instruction issued by the/87-SPB-I dated 7.8.1987.

3. The main contention of the Learned Counsel for the Applicant ^{is R} that as the applicant has not completed his tenure at Bargarh ^R, he should not have been transferred and transferring him by taking into consideration the leave reserve period being de hors the instruction of the DGP&T the order of transfer is liable to be set aside. Over and above, it is the grievance of the applicant that the distance between Bargarh and Rajborasambar is about 80 KM and it is not possible for him to commute to and fro journey every day to see his family, health and study of his children and it is also not possible on his part to maintain two establishments, one at Bargarh and the other one ^R ~~is~~ at RBS. While request of other willing employees praying for posting at RBS are pending, posting him to the said place cannot be said to be bona fide exercise of power and there are many vacancies existing nearer to Bargarh HO and he can be accommodated in any one of such vacancies instead of sending him ^{to a R} faraway place ^{ie R} to Rajborasambar. Accordingly, Mr.Dhalsamanta ^{anta R} submitted that he would be satisfied if this OA is disposed of with direction to



Respondent No.2 to adjust the applicant in any of the vacancies existing nearer to Bargarh HO, ^{and} if it is not possible to accommodate in the post in which he was continuing i.e. at Bargarh HO. No convincing reason has been offered by Mr.P.R.J.Dash, Learned Additional CGSC appearing for the Respondents to preclude us from issuing an order to the extent prayed for by Mr.Dhals^amanata, Learned Counsel for the Applicant. In view of the above, this OA is disposed of with direction to the Respondent No.2 to considering ^{the} posting of the Applicant in any existing vacancies available nearer to Bargarh HO and pass appropriate order in this regard within a period of thirty days from the date of receipt of copy of this order. There shall be no order as to costs.



(R.C.MISRA)
Member (Admn.)



(A.K.PATNAIK)
Member (Judl.)