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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

**ORIGINAL APPLICATION NO. 715 OF 2013
CUTTACK, THIS THE 25th DAY OF October, 2013**

**CORAM
HON'BLE SHRI A.K. PATNAIK, MEMBER (JUDL.)**

Banambar Sethy,
Aged about 52 years,
S/o Late Bihari Sethy.
Permanent resident of Village : Manzibag,
P.O.- Balanga, Dist- Puri
Presently working as
Inspector of Posts (PG),
Jaypore (K) Koraput Division, Koraput.

.....Applicant

(Advocate(s) : M/s. S.K.Rath, B.K.Nayak-3, D.K.Mohanty)

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Union of India Represented through

1. Secretary-cum-Director General of Posts,
Ministry of Communications,
Department of Posts, Dak Bhawan,
Sansad Marg, New Delhi-11001.
2. Chief Post Master General,
Orissa Circle, Bhubaneswar,
Dist. Khurda.
3. Post Master Gehleral,
Berhampur (Ganjam),
At/PO: Berhampur,
Dist- Ganjam

... Respondents

Advocate(s).....

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ORDER (ORAL)

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

A resolution has been made and communicated by the
C.A.T. Bar Association to the extent as under:

"In continuation to our earlier resolution dt. 27.09.2013,
01.10.2013, 03.10.2013, 07.10.2013 & 10.10.2013 and in
view of the resolution dt. 21.10.2013 of High Court Bar
Association, the emergent general body of C.A.T. Bar

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Association resolved unanimously today at about 10.30 to continue abstain from Court work till 24.10.2013".

In view of the above, Ld. Counsel for the either parties are absent.

However, the applicant, Mr. Banambar Sethy, is present in the court in person today and sincerely prayed for taking up of this matter today as he is likely to be relieved in pursuance of the order of transfer and order of rejection. Hence, I have heard him and perused the records.

The applicant, who is at present working Inspector of Posts (PG), Jaypore (K) Koraput Division, Koraput, had earlier approached this Tribunal in O.A. NO. 585/13 challenging his order of transfer to Inspector of Posts, Gunupur Sub division made by order dated 11.07.2013. The said O.A. was disposed of on 29.08.2013, relevant portion of which is quoted herein below:

"3. In view of the above, without entering into the merit of this case, we dispose of this O.A. by directing the applicant to make a comprehensive representation against his transfer to the Chief Post Master General (Respondent No.2) within 10 days from today and if such a representation is made within 10 days from today then Respondent No.2 is directed to consider the same and communicate the result thereof to the applicant within 30 days from the date of receipt of such representation. However, we make it clear that if no representation is made within 10 days from today then the further representation will not be accepted by Respondent No.2.

4. As Mr. Mohanty, Ld. Counsel for the applicant, submitted that the applicant has not yet been relieved and is still continuing at the same place of posting, we direct that the status quo in respect of the applicant's posting will be maintained till the disposal of the representation if made within 10 days from today.

5. With the aforesaid observation and direction, O.A. stands disposed of at the stage of admission itself."

The Respondents considered the representation of the applicant but rejected the same as communicated to the applicant in

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letter dated 04/10.10.2013, relevant portion of the order of rejection is

quoted herein below:

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“ As per directions of the Hon’ble Court, Sh. Sethy has submitted an advance copy of his representation, dated 02.09.2013 requesting to allow him to continue as IP (PG), Koraput Division, Jeypore which was received in this office within stipulated time period.

I, Sh. Tilak De, Chief Postmaster General, Odisha Circle (Respondent No.2), have gone through the representation, dated 02.09.2013 of Sh. Sethy along with other relevant information on the issue. Sh. Sethy has been working as IP(PG), Koraput Division for more than 3 years and transferred as Inspector of Posts, Gunupur Sub Division in the same division by PMG, Berhampur Region as the post is vacant on the analogy that the post of IP (PG) can be managed by any officiating arrangement while an IP post of a Sub Division cannot be kept vacant. Besides, Sh. Sethy has not put forth any strong reason like education of children, sickness of any family member etc. in his representation for his retention at Jeypore in the post of IP (PG). This transfer is done in the interest of service.”

5. Now in the instant O.A. the applicant has prayed that the Respondents rejected the prayer of the applicant without taking into consideration the points raised by him in his representation vis-à-vis the policy of transfer stated by him in the representation. His further case is that he, being a Scheduled Caste he is excluded from the purview of frequent and unscheduled transfer as per the DOP&T O.M. No. 36026/3/85-Est. (SCT) dt. 24.6.85, which has been upheld by the Jaipur Bench of the Tribunal in the case of B.S.Verma Vs UOI & Ors. (ATR 1993(1) CAT 548). Further the applicant prays that the present transfer being unscheduled is liable to be set aside. In this connection, he has relied on the decision of the B. Varada Rao Vs State of Krnataka reported in AIR 1986 SC 1955. By stating so, the applicant has prayed to quash the order of transfer dated 11.07.2013 and order

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of rejection dated 4/10.10.2013. As the applicant has not yet been relieved, he prays that necessary direction be issued to allow him in his present place of posting.

6. I have considered the submissions made by the applicant with reference to the pleadings and materials placed in support thereof.

7. On examination of the earlier order of this Tribunal dated 29.08.2013 in O.A.No. 585/13, order of rejection dated 4/10.10.2013 vis a vis the representation and the points raised by the applicant in this O.A., I find that the rejection of the representation dated 4/10.10.2013 is not in accordance with the law laid down by the Hon'ble Apex Court in as much as the points raised have to be met by the concerned authorities while rejecting the claim of the employee. In the aforesaid circumstances, the order of rejection dated 4/10.10.2013 is hereby quashed and the matter is remitted back to the Respondent No.2 to reconsider the case of the applicant taking into consideration all the points raised by the applicant in his representation and discussion made above and pass a reasoned order within 60 days from the date of receipt of a copy of this order. Till then, status quo of the applicant as of date shall be maintained.

8. In the result, this O.A. stands disposed of at the stage of admission.

9. Send copy of this order to the Respondent No.2 along with the O.A. at the cost of the applicant.


(A.K.PATTNAIK)
MEMBER(Judl.)

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