

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK**

**O. A. No. 260/00925 OF 2016**  
**Cuttack, this the 14<sup>th</sup> day of November, 2017**

**CORAM**  
**HON'BLE MR. S. K. PATTNAIK, MEMBER (J)**  
**HON'BLE DR. M. SARANGI, MEMBER (A)**

.....

Ghanashyam Dhal,  
aged about 54 years,  
S/o-Late Bhaskar Chandra Dhal,  
R/o-Sunarui, PO- B. Katisahi,  
PS-Baliapal, Dist-Balasore, Odisha,  
at present serving as Joint Deputy Director,  
Subsidiary Intelligence Bureau (SIB),  
Govt. of India, Cuttack, At- Deulasahi,  
PO-Tulasipur, Cuttack-08, Odisha.

...Applicant

(By the Advocate-M/s. B. P. Das, D.K. Panda, S. Dash)

-VERSUS-

**Union of India Represented through**

1. Secretary, Ministry of Home, Govt. of India, New Delhi.
2. Director, Intelligence Bureau (IB), North Block, New Delhi-110001.
3. Joint Director, Subsidiary Intelligence Bureau (SIB), Vidyut Marg, Unit-V, Bhubaneswar, Dist-Khurda, Odisha.

...Respondents

(By the Advocate- Mr. S. Behera)

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## **ORDER**

### **S.K.PATTNAIK, MEMBER (JUDL.):**

The applicant seeks quashing of the transfer order dated 16.09.2016 (Annexure-1) and order dated 21.10.2016 (Annexure-6) passed by the Joint Director, Subsidiary Intelligence Bureau (Ministry of Home Affairs), Govt. of India, Bhubaneswar. Earlier, the applicant had approached this Tribunal in O.A.No. 697/2016 challenging the order dated 16.09.2016 by which he was transferred from Cuttack to Bolangir. At the pre-admission stage, the Single Bench of this Tribunal vide order dated 07.10.2016 (Annexure-5) quashed the transfer order even without issuing any notice on the ground that the transfer order is a cryptic one and directed Respondent No.3 (Joint Director, SBI, Bhubaneswar) to consider all the points raised in the representation as he has not entered into the merit of the matter and to consider the same as per the rules and regulations in force. This Tribunal further directed Respondent No.3 to allow the applicant in his present place of posting till 03.01.2017 if no reliever has come and joined as on date. In response to the direction of this Tribunal, the Joint Director considered the representation of the applicant and reflected in his order the reasons of sticking to the earlier transfer order from Cuttack to Bolangir. According to Respondent No.3 applicant was relieved from Cuttack unit on 30.09.2016, i.e. much before passing of the order dated 07.10.2016 in O.A. No. 697/2016, and it has also been reflected in the order that the applicant had already completed tenure of three years at Cuttack and one senior was available at the unit at the time to take charge of the applicant after his transfer and further

opined that this transfer is not part of any chain transfer and was an independent post without joining of reliever so the question of joining of reliever is not relevant.

2.           Needless to say that soon after passing of the impugned order dated 21.10.2016 passed in response to the earlier direction of the Single Bench of CAT, Cuttack Bench, the applicant again approached this Tribunal in this O.A. and the Single Bench of this Tribunal vide order dated 22.12.2016 directed that status quo as on date as far as applicant's continuance is concerned will be maintained until further orders with liberty to the Respondents to file petition for modification of this order. Subsequently, the Assistant Director, Subsidiary Intelligence Bureau, through Sr. Panel Counsel, Mr. Sarbeswar Behera, filed M.A. No. 382/2017 for vacation of the said order and that is how the stay so also the O.A. was taken up for regular hearing as the Official Respondents have already filed counter in this case.

3.           The applicant has challenged the transfer order on the ground that his younger son, who is in the final year in Graduation in Revanshaw University, will complete the course in the month of April, 2017 and, that apart, his ailing widow mother is completely bedridden. The other ground is that the transfer order on administrative ground is not sustainable and the transfer order in the midst of the educational session from SIB, Cuttack is arbitrary.

4.           The Respondents have filed a counter stating therein that the applicant was transferred to SIB unit Bolangir vide order dated

16.09.2016 in public interest and was ordered to be relieved from Cuttack unit w.e.f. 30.09.2016. Further, there was order of this Tribunal to allow the applicant to continue in his place of posting at Cuttack unit till 03.01.2017 and, subsequently, even after passing of the speaking order dated 21.10.2016, there was status quo order thereby allowing the applicant to continue in his current place of posting at Cuttack.

5. Coming to the speaking order dated 21.10.2016, we did not notice anything irrational or illegal calling for interference. It may not be out of place to mention here that the power of interference by the Tribunal on a transfer order is very very limited. It can be interfered only when there is malafide or not passed by the competent authority or when it was passed contrary to the official rules and guidelines. Here the applicant could not show any violation of rules and guidelines calling for interference. In the case of ***Mrs. Silpi Bose and others Vs. State of Bihar and Others AIR 1991 SC 532*** Their Lordships of the Hon'ble Apex Court have taken exception to the conduct of the Hon'ble High Court of Patna in interfering with the transfer order. Their Lordships have gone to the extent of issuing a word of caution for entire subordinate judiciary to follow, that the courts should not interfere with the transfer order, which are made in public interest and for administrative reasons, unless the transfer orders are made in violation of any mandatory statutory Rules or on the ground of malafide. In the case of ***State of Punjab Vs. Joginder Singh Dhatt AIR 1993 SC 2486*** Their Lordships of the Hon'ble Apex Court have expressed disapproval of the Courts below interfering with

the order of transfer of public servant from one place to another as it is entirely for the employer to decide when, where and at what point of time a public servants will be transferred from present posting. According to Their Lordship, ordinarily the Courts have no jurisdiction to interfere with the order of transfer. Their Lordships also expressed disapproval of the conduct of the Hon'ble High Court of Punjab in quashing the order of transfer of the Respondents from Hosiyarpur to Sangarur. As, according to Their Lordships, Hon'ble High Court was not justified in exercising its jurisdiction under Article 226 of Constitution of India, in a matter where on the face of it no injustice was caused. Since in the instant case, the transfer was made on administrative exigency in a routine manner, no interference is called for. Hence ordered.

6. O.A. being devoid of merit is dismissed. All interim orders passed by this Tribunal are hereby vacated. No costs.

(M. SARANGI)  
Member (Admn.)

(S.K.PATTNAIK)  
Member (Judl.)

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