



IN THE HIGH COURT OF ORISSA, CUTTACK

W.P.(C) No.30756 of 2024

An application under Article 226 and 227 of the Constitution of India.

Kishore Biswal

..... Petitioner

-Versus-

Union of India and Others

..... Opp. Parties

For Petitioner

- Mr. Sashi Bhusan Jena
Advocate

For Opp. Parties

- Mr. P.K. Parhi, DSGI
Mr. Millan Kumar
Sulochana Patra,
Central Govt. Counsel
Sri Satya Sindhu Kashyap,
Sr. Panel Counsel, Govt. of
India

P R E S E N T :-

**THE HON'BLE MR. JUSTICE S.K. SAHOO
AND
THE HON'BLE MISS JUSTICE SAVITRI RATHO**

Date of Hearing & Judgment : 21.01.2025

S.K. SAHOO, J. Mr. P.K. Parhi, learned DSGI along with Mr. Millan Kumar and Sulochana Patra, learned Central Govt. Counsel has



filed power on behalf of the opp. parties Union of India, which is taken on record.

Sri Satya Sindhu Kashyap, learned Sr. Panel Counsel, Govt. of India has filed memo of appearance on behalf opposite party no.2, which is also taken on record.

This writ petition has been filed by the petitioner Kishore Biswal challenging the order dated 22.07.2024 passed by the learned Central Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No.260/00083 of 2020 in dismissing the Original Application filed by the petitioner in which prayer was made to quash the orders of absorption of the petitioner in RMS 'N' Division and for a direction to the opposite parties to absorb him in the post of Postal Assistant in Circle Office i.e. in the office of the Chief Post Master General, Odisha, Bhubaneswar (opposite party no.3) with all consequential benefits taking into account the option of the petitioner dated 07.01.2019.

The case of the petitioner, in short, is that he was appointed as Off-set Machine Assistant in Postal Printing Press, Bhubaneswar (in short, 'PPP') on 01.08.2000. The Govt. of India took a decision to close the PPP, Bhubaneswar on 09.05.2018, however to absorb its employees in other establishment of



Department of Posts, a list of employees was prepared vide letter dated 29.08.2018. The employees of 'PPP' were asked to submit their option in the prescribed proforma and the petitioner also submitted his option with preferred place of posting at Circle Office, Bhubaneswar. The option of the petitioner was not considered, however, vide letter dated 07.01.2019, eight employees were sent for training and absorbed in different establishments of the Postal Department vide order dated 24.01.2019. Again vide order dated 15.05.2019, seven employees were allowed to be retained in the PPP, Bhubaneswar against the post of Office Assistant till its complete closure and the petitioner was absorbed as MTS in RMS 'N' Division. The case of the petitioner is that persons who were retained in PPP, Bhubaneswar as well as the employees absorbed in Postal Department were having either equal or lesser qualification than him. The petitioner submitted his representation and the opposite parties vide order dated 19.05.2019, only changed his post from MTS to Sorting Assistant in RMS 'N' Division instead of posting him in his opted place i.e., in Circle Office as Postal Assistant. The case of the opposite parties is that due to lack of administrative knowledge, the petitioner was not posted in the Circle Office as Postal Assistant. The grievance of the petitioner



for posting him as Postal Assistant in the Circle Office was rejected, which was challenged before the Central Administrative Tribunal.

The opposite parties filed their counter affidavit wherein it is stated that since the petitioner did not have knowledge in administrative work, he was not absorbed in the PA cadre in Circle Office and there was no discrimination to the petitioner and no favour was shown to others. It is further stated that since in compliance of the interim order dated 20.03.2020, the petitioner has been posted as Postal Assistant in Bhubaneswar Division, no relief can be granted to the petitioner in the O.A.

After going through the pleadings and hearing the learned counsel for both the parties, the learned Tribunal has been pleased to hold as follows:-

"4. The case of the applicant is that he had specific qualification to be posted in PA Cadre at Circle Office, Bhubaneswar whereas the respondents' contention is that since the applicant had lack of administrative knowledge, he was not posted at Circle Office, Bhubaneswar. Nowhere the applicant has produced any documentary evidence to show that he had more administrative



knowledge than the others, who were absorbed in Circle Office, Bhubaneswar. Secondly, the 'case of the applicant is that his non-posting is due to the three allegations/reports as reveals from the RTI information dated 04.11.2022. However, the applicant has also failed to substantiate that only due to such allegations and, not because of lack of administrative knowledge, he was not posted at Circle Office, Bhubaneswar. Further, we are also in agreement with the averment of the respondents that, once the applicant has been allotted in Bhubaneswar Division as Postal Assistant, that too in the same scale of pay of Offset Machine Assistant, i.e. PB Rs. 5200-20,200/- and Gp 2400/-, the grievance of the applicant with regard to his posting as PA subsides. With regard to the claim of the applicant that he must have been posted to Circle Office, Bhubaneswar, this Tribunal is of the considered opinion that posting of an employee is within the specific domain of the authorities concerned looking to the best utilization of the concerned employee vis a vis his proficiency and administrative exigencies and the same is no more res integra"

In the case of **Shilpi Bose -Vrs.- State of Bihar reported in A.I.R. 1991 S.C. 532**, the Hon'ble Supreme Court has held that the order of posting issued by the competent



authority did not violate any legal right. The employee holding a transferable post cannot claim any vested right for his/her posting at a particular place.

In the case of **State of U.P. –Vrs.- Gobardhan Lal reported in A.I.R. 2004 S.C. 2165**, the Hon'ble Supreme Court has held that transfer and posting of an employee at any particular place or position is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service in the absence of any specific indication to the contra, in the law governing or conditions of service. Unless the transfer order and posting is shown to be an outcome of a mala fide exercise of power or violative of statutory provision (an Act or Rule) or passed by an authority not competent to do so, the same cannot be lightly interfered with as a matter of course or routine for any or every type of grievance sought to be made.

Thus, in view of the settled principle of law that posting of an employee is an incidence of service and it is for the employer to decide as to where a particular employee is to be posted keeping in view public interest as well as administrative exigency and the employee has no vested right to get a posting at a particular place or choose to serve at a particular place for a particular time and it is within the exclusive domain of the



employer to determine as to what place and for how long the services of a particular employee are required and since this Court has limited jurisdiction to interfere with the same unless it is shown to be an outcome of mala fide exercise or stated to be in violation of statutory provision, after hearing the learned counsel for the petitioner so also the learned counsel for the opposite parties, we find that the reasons assigned by the learned Tribunal in not accepting the prayer of the petitioner, is quite justified.

Accordingly, we do not find any reason to interfere with the impugned order. The writ petition being devoid of merits, stands dismissed.

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S.K. Sahoo, J.

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S. Ratho, J.

Orissa High Court, Cuttack
The 21th January, 2025/Pravakar