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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION No. 78 OF 1986

Date of decision : 29.7.1986.

B.C.Bohidar Petitioner
M/s L.Mohapatra & D.K.Misra, Advocate(s) For Petitioner.

Versus

Union of India & others Respondents.
Mr. Ganeswar Rath, Addl. Standing Counsel :For Respondents
(Central).

C O R A M :

THE HON'BLE MR. B.R. PATEL, VICE -CHAIRMAN.

A N D

THE HON'BLE MR. K.P.ACHARYA, MEMBER (JUDICIAL)



1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ? Yes.

J U D G E M E N T

K.P.ACHARYA, MEMBER (J), The petitioner has been transferred to Sambalpur as a Grade I Clerk in the Door Darshan. Hence the petitioner has a grievance on this issue.

2. The case of the petitioner is that he joined Cuttack Door Darshan Kendra on being transferred from Jeypore and the joining date ^{was} ~~is~~ 5.3.1983. On 2.6.1986 he has been transferred to Sambalpur Door Darshan Kendra and in his place, one Mr. B.C.Acharya has been transferred to Cuttack. Being aggrieved by this order of transfer an application under section 19 of the Administrative Tribunals Act, 1985 has been filed with a prayer to quash the order of transfer.

3. It was maintained on behalf of the respondents that the order of transfer in question has been passed on the representation made by the petitioner and therefore, it should not be quashed.

4. During the course of argument, the petitioner submitted that his old ailing parents are at Cuttack being treated by reputed doctors and in case he joins at Sambalpur, not only it would be utterly difficult on his part to carry the old and ailing parents to Sambalpur but he would be deprived of the benefit derived from the reputed doctors and to add to this, the greater ~~misery~~ misery of the petitioner is that he has to take his school going children to Sambalpur and there is ^{feasible} ~~a~~ ^{chance} ~~chance~~ of getting them admitted into schools at Sambalpur as the dates of admission have already elapsed. On the other hand, it was submitted by



the learned Addl. Standing Counsel that in cases of transfer, the ~~student~~ consistent view taken ⁱⁿ ~~by~~ the judicial pronouncements is that it should not be normally interfered and the Court should lay their hands only when the order of transfer is passed ^{with} ~~by~~ malafide or vindictiveness. True it is, in the present case, the petitioner has not placed before us anything to indicate any malafide, bias or vindictiveness ~~xxxx~~ attitude on the part of the higher authorities. Even though the Courts should not interfere when the ingredients are not to be found, yet the grounds set forth by the petitioner mentioned above ~~had~~ to be taken into consideration not only by the employer but by the Courts/ Tribunal. It is of great importance and of paramount consideration to any son having old and ailing parents. The anxiety of a son on this issue can be well imagined and we think it would not be foreign to the concerned authorities. Education of children is equally of paramount importance to a father. As regards the order of transfer passed on the written representation of the petitioner (as submitted by the learned Addl. Standing Counsel), we may say that it was filed in the year 1983 which is an undisputed fact. Many waters have flown since then and circumstances have considerably changed. Had the authorities passed any orders on such representation within a reasonable time, undoubtedly the petitioner would be out of court but since the authority took three years to dispose of the representation and that disposal occurred after the academic session of school going children had started, it would be ^a ~~harsh~~ punishment on the petitioner if he



is deprived of giving proper education to his children and proper medical aid to the ailing parents .

5. In view of the above facts and circumstances , we are inclined to take a liberal view in the matter and therefore, we do hereby direct the order of transfer forming subject-matter of Annexure-1 ^{he} ~~is~~ kept in abeyance till the end of May, 1987.

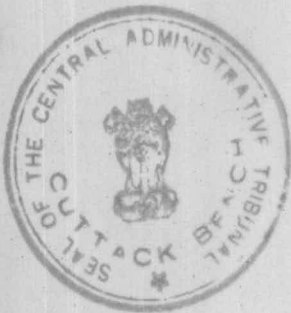
6. In the result , the petition is allowed but there will be no order as to costs.

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Member (Judicial).

B.R. PATEL, Vice Chairman.

I agree.

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Vice Chairman.



Central Administrative Tribunal,
Cuttack Bench, Cuttack.
July 29, 1986/D.C.Roy.