

IV 4

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH

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ORIGINAL APPLICATION No.129 OF 1986

Date of decision : March 26, 1987.

S.N. Dash .... Applicant

M/s C.V.Murty, C.M.K.Murty  
and C.A.Rao, Advocates .... For Applicant.

Versus

Union of India and others .... Respondents.

Mr. A.B.Misra, Sr. Standing  
Counsel ( Central) .... For Respondents.

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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)

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

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JUDGMENT

K.P. ACHARYA, MEMBER (J), In this application under section 19 of the Administrative Tribunals Act, 1985, the petitioner seeks to challenge the order of transfer passed by the competent authority transferring the petitioner along with some others to Calcutta from Bhubaneswar, vide Annexure-5.

2. Succinctly stated, the case of the petitioner is that he was appointed as a Senior Clerk in the office of the Welfare Commissioner <sup>located</sup> stationed at Bhubaneswar. Later some posts in the office of the Welfare Commissioner, Bhubaneswar were transferred to Calcutta as due to creation of a post of Assistant Welfare Commissioner at Calcutta, the work-load in the office of the Welfare Commissioner, Bhubaneswar was lessened. After such posts were transferred vide Annexure-4 to Calcutta, the petitioner alongwith some others have since been transferred to Calcutta, vide Annexure-4. Being aggrieved by this order of transfer, the petitioner has invoked the jurisdiction of this Bench for interference.

3. In their counter, the respondents-Opp. Parties maintained that due to exigency of service, the petitioner has been transferred and there is no illegality behind the order of transfer for which there is any necessity for interference. Hence, the application is liable to be dismissed.

4. We have heard Mr. Murty, learned counsel

VI

8

appearing for the petitioner and Mr. A.B.Misra, learned Senior Standing Counsel ( Central) appearing for the respondents at some length. Law is well settled that an administrative order like transfer etc. could be quashed only when there is any malafide on the part of the transferring authority . In the present case , therehas been no such allegation against the competent authority . The only grievance of the petitioner is that since there are many other officers of his status of cadre, there was no justification for the concerned authority to choose the petitioner to be transferred to Calcutta . We have given our anxious consideration to this aspect of the arguments advanced by Mr. Murty but we may say that matters of this nature lie completely within the competence and discretion of the authorities concerned as to who should be posted at which station and against which post . Interference of this Bench on matters of this nature would seriously tell upon the administration. Therefore, we do not like to lay our hands for interference in regard to the transfer of the petitioner.

5. Before we part with this case, we may say that it was submitted by Mr. Murty, learned counsel for the petitioner that the authorities concerned should be directed not to disturb the seniority of the petitioner and on the contrary seniority of the petitioner should be governed according to rules even though the petitioner has been transferred to Calcutta .

We have no doubt that the appropriate authority would certainly fix the seniority of the petitioner according to rules.

6. It was further more submitted by Mr. Murty that the authorities concerned be directed to consider the re-transfer of the petitioner to Bhubaneswar when a post is available. We have no doubt that the competent authority as an employer would certainly take a compassionate view in the matter and do the needful if there is no administrative inconvenience on his part.

7. Thus, we find no merit in the application which stands dismissed leaving the parties to bear their own costs.

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Member (Judicial)  
26.3.1987

B.R. PATEL, VICE CHAIRMAN,

I agree.

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Vice Chairman.  
26.3.1987

Central Administrative Tribunal,  
Cuttack Bench.  
March 26, 1987/Roy.