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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH :CUTTACK.

Transferred Application No.79 of 1987
Title Suit No.4 of 1984.

&

ORIGINAL APPLICATION No.172 1986.

Date of Decision : November 20, 1987.

In T.A.79 of 1987

Smt. Urmila Guru, aged about 34 years,
wife of Shri Jugal Kishore Guru,
permanent resident of Budharaja, Sambalpur,
P.S. Sadar Sambalpur, Dist. Sambalpur at
present residing at Qr.No. PWD LA/60,
Industrial Estate, Rourkela-4, P.S.
Raghunathpali, Tehsil and Munsifi Panposh,
District Sundargarh ...

Petitioner
(Plaintiff)

Versus

The Officer in temporary charge of
Inspectorate of Metals, Rourkela through
its Senior Scientific Officer II R.N.Ghosh,
Rourkela-4, P.S. Raghunathpali, Tehsil and
Munsifi Panposh, District-Sundargarh.

Opp. party
(Defendant)

For the Petitioner .. M/s. A.K. Mishra,
B.N. Pujari, Advocates.

For the Opp. party .. Mr. A.B. Mishra, Senior Standing
Counsel (Central)

IN O.A. 172 of 1986.

Sri J.K. Guru, s/o late B.Guru,
of Budharaja at/P.O./P.S./Dist-
Sambalpur Town, at present residing
at Qr.No. PWD NA-60, Industrial Estate,
Rourkela-4, P.S. Rourkela-4, Dist.
Sundargarh. ...

Applicant.

Versus

1. Union of India represented through
Director General of Inspector, Depart-
ment of Defence Production, New Delhi.

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2. Sri S.S.Guha, Inspector of Metals,
(Hot Mills Road) SAIL, Rourkela,
P.S.Tangarpali, Munsifi-Panposh,
Dist.Sundargarh.

3. Officer in temporary charge of
Inspectorate of Metals (Hot Mills,
Road) SAIL, Rourkela through its Senior
Scientific Officer, R.N.Ghosh,
S/o not known, Rourkela, P.S.Tangarapali,
Munsif-Panposh, Dist.Sundargarh.

4. Sri D.P.Sharma, Chargeman(Hot Mills Road)
SAIL, S/o not known, Office of Inspector
of Metals,Rourkela, P.S.Tangarapali,
Munsif-Panposh, Dist.Sundargarh.

...

Respondents.

For the Applicant ...

Mr.S.N.Satpathy,
Advocate.

For the Respondents ...

Mr.A.B.Mishra,
Senior Standing Counsel
(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 ? Yes.

2. To be referred to the Reporters or not ? *No.*

3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

JUDGMENT

V

K.P.ACHARYA, MEMBER(J) Transferred Application No.79 of 1987 has been transferred under section 29 of the Administrative Tribunals Act, 1985, for disposal according to law.

2. The petitioner in T.A.79 of 1987 is the wife of a Government servant who is applicant in Original Application No.172 of 1986. The grievance of the petitioner in T.A.79 of 1987 is against the order of transfer passed by the appropriate authority transferring the petitioner's husband from Rourkela to Muradnagar. In O.A.No.172 of 1986 the Government servant is himself the applicant who feels aggrieved by the order of transfer passed by the appropriate authority in transferring ^{him} to Muradnagar and in addition to the same, a grievance is put forward by the applicant for bypassing him in the matter of his promotion and allowing promotion to one of his juniors i.e. Respondent No.4. Both the cases involve ^a common matter namely, the transfer. We feel that this common judgment would govern both the cases. So far as Transferred Application No.79 of 1987 is concerned, we do not like to express any opinion on the said case because our opinion expressed in Original Application No.172 of 1986 would be the governing factor. We are of this opinion especially because the wife of the Government servant (applicant in O.A.172 of 1986) is the petitioner in T.A.79 of 1987 and perhaps she would have no locus standi to augment her cause when the husband is aggrieved and has put forward his own grievance for redressal. Therefore, Transferred Application No.79 of 1987 is disposed of accordingly.

Now, we would deal with Original Application No.172 of 1986.

3. Shortly stated, the case of the applicant is that he was initially appointed as Technical Supervisor and later promoted to the post of Chargeman and attached to the Inspectorate of Metals, Rourkela. On 7.3.1984 an order was passed transferring the applicant from Rourkela to Muradnagar vide Annexure-1. The applicant felt aggrieved by this order and has filed this present application for quashing the order of transfer. In addition to this prayer, the applicant prays that the order of supersession of the applicant by his juniors should also be struck down.

4. In their counter, the respondents maintained that the order of transfer ^{was} passed in usual course without any malafide intention and the applicant not having carried out the transfer order, he was no longer allowed to join in the Rourkela Office. The order of transfer having been passed on administrative exigencies the applicant should be directed to join at Muradnagar and not to avoid the order of transfer.

As regards the question of supersession, it is maintained on behalf of the respondents that the case of the applicant was duly considered but the Departmental Promotion Committee having found him unsuitable, there was no other option left with the competent authority but to bypass the applicant.

5. We have heard Mr. S.N. Satpathy, learned counsel appearing for the applicant and Mr. A.B. Mishra, learned Senior Standing Counsel (Central) at some length. At the outset, we may say that, so far as the order of transfer ^{is concerned}, the applicant ^{has been} must carry out the order of transfer and must join at Muradnagar.

Though Mr. Satpathy wanted the transfer order to be quashed but knowing our view that the transfer order should be carried out, Mr. Satpathy alternatively submitted that unless the dues of the applicant are paid it would be utterly difficult for him to move out from Rourkela because in the mean while he has faced great financial hardship. We think, there is substantial force in this contention of Mr. Satpathy. We have found from the records and from the submission of learned counsel for the applicant that the applicant has not attended the Office from 23.4.1984 till to-day. It was contended by Mr. Satpathy, learned counsel for the applicant that on 12.6.1984 the applicant went to his Office at Rourkela and wanted to join his Office whereas he was not allowed to join. On this point, it would be fruitless to direct an enquiry, as to whose version is correct, but the fact remains that till to-day the applicant has not joined his Office. Therefore, we would direct that from 23.4.1984 till today the competent authority should calculate all types of leave which may be due to the applicant and if applied for, such leave should be granted in favour of the applicant and due to such grant of leave, amount due to the applicant towards his emoluments should be paid to the applicant within six weeks from the date of receipt of the application to be filed by the applicant. For the remaining days, for which no leave of any nature is due to the applicant, the applicant will not be entitled to any remuneration. Furthermore, we would say that the period of absence of the applicant from duty should not be treated as break in service. It is furthermore directed that the applicant should join at Muradnagar within seven days from the date of receipt of his emoluments as per the

above directions.

6. So far as the supersession is concerned, it was vehemently urged before us by learned counsel for the applicant that the competent authority should be directed to reconsider the case of the applicant by convening a special review Departmental Promotion Committee. We are unable to accede to this request because from records we do not find anything to show that the decision of the Departmental Promotion Committee was backed by malafide, bias etc. However, we would direct that the case of the applicant should be considered in the next meeting of the Departmental Promotion Committee to be held for this purpose. It was submitted by Mr. Satpathy that the applicant would file an application before the competent authority for reconsideration of his case afresh. For this purpose no permission is required from the Bench. If any application is filed by the applicant, certainly the competent authority would consider it and dispose of the same according to Rules.

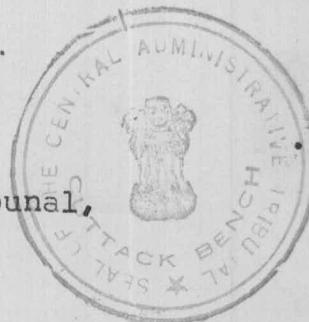
7. Thus, this application is accordingly disposed of leaving the parties to bear their own cost.

..... 20.11.87.
Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

I agree.

Central Administrative Tribunal,
Cuttack Bench : Cuttack.
November 20, 1987/S. Sarangi.



..... 20.11.87.
Vice-Chairman