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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACKBENCH, CUTTACK

ORIGINAL APPLICATION No.130 OF 1987

DATE OF DECISION : June 22, 1987.

Prafulla Chandra Das ... Petitioner
Versus
Union of India & others ... Respondents.

M/s P.V.Ramdas &
B.K.Panda, Advocates : ... For Petitioner.

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

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 Reporter or not ? No .

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

JUDGMENT

K.P.ACHARYA, MEMBER (J), In this application under section 19 of the Administrative Tribunals Act, 1985, the petitioner challenges the order of transfer passed by the competent authority covered under Annexure-3.

2. Shortly stated the case of the petitioner is that the petitioner is the Deputy Post Master attached to Balesore Town Head Post Office. On 1.5.1987 the petitioner has been transferred to Motiganj Post Office within Balasore town in the same capacity. This order is under challenge praying to quash the same.

3. In their counter, the Opposite Parties-respondents maintained that no illegality has been committed in the transfer order and the petition is liable to be dismissed especially when there is no allegation of malafide.

4. We have given our anxious consideration to the pleadings put forward by the petitioner and there is no iota of evidence alleging any malafide against the competent authority. Law is well settled that transfer orders can be struck down only when there is malafide or bias existing on the part of the competent authority. Since there is no case of malafide put forth before this Bench in connection with this case, we cannot but be slow to interfere with the order of transfer.

5. Mr. P.V.Ramdas, learned counsel appearing for the petitioner submitted before us that the petitioner would retire on superannuation on 31.5.1988. In case the petitioner is made to join in Motiganj Post Office,

the petitioner is bound to lose occupation of the Government quarters which has been allotted to him by virtue of his official position as Deputy Post-Master and hence alternatively it was prayed by Mr. Ramdas on behalf of the petitioner that on this account at least the transfer order be struck down. We find no justifiable reason to strike down the transfer order solely on this ground. But we do take serious notice of the fact that at present to get a suitable accommodation for the petitioner at Balasore, there may be some difficulty. Ordinarily one might not have shown this indulgence to the petitioner if his due date of superannuation would not have been May 1988. Therefore, very fairly learned Sr. Standing Counsel submitted that in case the petitioner forgoes his entitlement to charge house rent allowance, he may be allowed by the competent authority to continue in the quarters and his successor would be persuaded not to claim occupation of the quarters for eleven months more. This is rightly a very fair concession made by the learned Sr. Standing Counsel probably due to the fact that the departmental authorities never intend to harass one of its employees who has served the Department for 35 years and especially on the verge of retirement. We do appreciate the attitude both of the departmental authorities and that of the learned Sr. Standing Counsel. Mr. P.V. Ramdas, learned counsel for the petitioner on behalf of the petitioner makes a positive statement to this Bench that this client would not lay any claim for house rent allowance. Apart from this concession made by Mr. Ramdas, according to rules, the

the petitioner is not entitled to house rent allowance if he is given a Government accommodation. Be that as it may, we would accept the fair concession given by the learned Sr. Standing Counsel and we would direct that the petitioner may join in Motiganj and he would remain in occupation of the quarter which has been allotted to him as the Deputy Post Master of Balasore Town Head Post Office. Normally, the petitioner would have vacated the quarters, according to rules, on 30.7.1988 after his date of superannuation i.e., 31.5.1987 but we would direct that the above mentioned arrangement to continue subject to the condition that the petitioner would vacate the quarters in question by 30.6.1988 so that his successor would not be ~~in~~ ^{ed} inconvenient. Mr. Ramdas submitted before this Bench that the petitioner would vacate the quarters on or before 30.6.1988.

6. Thus, the application is disposed of accordingly leaving the parties to bear their own costs.

By order
..... 22.6.87
Member (Judicial)

B.R. PATEL, VICE CHAIRMAN,

I agree.

Prashant
..... 22.6.87
Vice Chairman.

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
June 22, 1987/Roy.