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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION No.141 OF 1987

Date of decision : 22nd June, 1987.

P.K. Patnaik .. Petitioner

Versus

Union of India and others .. Respondents.

Mr. U.C.Panda, Advocate for the Petitioner.

Mr.A.B.Misra, Sr. Standing Counsel (Central)
for the 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 reporters or not ? No *AL*
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

JUDGMENT

K.P.ACHARYA, MEMBER(J), This is an application under Section 19 of the Administrative Tribunals Act, 1985 for disposal according to law.

2. Succinctly stated the case of the petitioner is that he was originally posted at Jeypore as Sorting Assistant of the Railway Mail Service. The petitioner was transferred to Berhampur on 24.3.1987 and joined the said post on 26.3.1987. Thereafter on 29.4.1987 transfer order was passed transferring the petitioner to Jeypore to join the said post which he was holding at Jeypore. This is covered under Annexure-5 which is under challenge. While admitting this case, we had given special notice to the learned Sr. Standing Counsel to take instructions. Since we had stayed the order of transfer we thought it advisable to dispose of the matter expeditiously.

3. Counter has been filed on behalf of the respondents - Opposite Parties in which it is averred that the petitioner was brought to Berhampur as a stop gap arrangement to clear up certain back log namely, to take necessary steps for despatching about a lakh of letters which were lying without being sent to their respective stations. It is further contended on behalf of the respondents-Opposite Parties that the transfer order having been passed only as a stop gap arrangement, the application should be dismissed.

4. After hearing learned counsel for both sides, we thought it appropriate to dispose of the case on merits. Mr. Panda, learned counsel for the petitioner vehemently urged before us that the story of Respondents that the petitioner was transferred as a stop gap arrangement is not believable because ^{there} appears nothing to the above effect in the transfer order. It was further contended by Mr. Panda that the competent authorities have no objection to allow the petitioner to join the post at Berhampur but the Superintendent of Post Offices, Berhampur being pressurised by certain Union leaders is not allowing the petitioner to join the post at Berhampur. There is absolutely no iota of evidence before us that any Union leaders have been pressurising the Superintendent, Post Offices, Berhampur. Hence we cannot accept the instructions given by the petitioner to his counsel to the above effect to be true. In the transfer order passed by the competent authority transferring the petitioner from Jeypore to Berhampur, there is certainly no mention of the fact that the transfer of the petitioner is on stop gap arrangement. Conceding for the sake of argument that the petitioner received a regular transfer order, law is well settled that a transfer order cannot be struck down without any malafide, bias pleaded against the competent authority. Mr. Panda fairly submitted before us that his client has not been able to make out a case of malafide against the competent authority. Therefore, we cannot but be slow to hold that the order of transfer passed by the competent authority

transferring the petitioner from Berhampur to Jeypore is backed by malafides. Hence, we find no merit in the application which stands dismissed leaving the parties to bear their own costs.

5. Before we part with this case, we cannot but observe that the petitioner wants to stay at Berhampur due to his mother's acute illness. It is submitted before us that the petitioner lost his father in the year 1984 when he was at Jeypore. It is further submitted on behalf of the petitioner that in the Book of Request Register for Transfer, the name of the petitioner appears against serial No.1. All these circumstances appearing in favour of the petitioner should be appropriately dealt with by the competent authorities. We do not find it just and convenient to encroach upon the jurisdiction of the competent authority and we do not want ^{to} interfere with the discretion of the competent authority. We are sure the competent authority would take a compassionate view in the matter and try to absorb the petitioner at Berhampur if there is any vacancy at present or any vacancy occurs in near future provided that the petitioner agrees as an obedient servant to carry out the direction of his higher authorities.

Keas 22.6.87
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Member (Judicial)
22.6.1987.

B.R.PATEL, VICE-CHAIRMAN,

I agree.

B.R.P.
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Vice-Chairman
22.6.1987

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