

D.A. 151/87

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
Serial No. of Order	Date of Order	Order with Signature	Office note as to action (if any) taken on Order
4	29.6.87	<p>Put up this case for admission tomorrow as Honble Member (J) is on leave today.</p> <p><i>Rm. Mohd</i> Vice-Chairman</p>	
5	30.6.87	<p>In this application under section 19 of the Administrative Tribunals Act, 1985 the applicant has challenged the order of transfer passed by the competent authorities transferring the petitioner from Cuttack to Dhenkanal . The petitioner is now working as a Telegraphist at Cuttack. Being aggrieved by the order of transfer passed by the competent authority transferring the petitioner to Dhenkanal, the petitioner has invoked the jurisdiction of this Bench for interference . The main grounds on which the order of transfer is sought to be assailed are as follows :-</p> <ol style="list-style-type: none"> <li>(1) The wife of the petitioner is working at Cuttack in the Film Development Corporation and the petitioner has married her only 15 days ago.</li> <li>(2) Father of the petitioner is ill and therefore the petitioner is attending on him.</li> <li>(3) The concerned authorities have violated the directives of the Central Government contained in Annexures-4 and 5 .</li> <li>(4) In order to make out a case of malafides against</li> </ol>	

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		<p>the competent authorities , the petitioner submits that despite the recommendations of the <del>State</del> Government of Orissa that the wife of the petitioner is working in the Film Development Corporation and the petitioner's service should be <sup>placed</sup> at Cuttack , the competent authority paid no heed to the same.</p> <p>(5) The additional fact of making out a case of malafide is that the representation of the petitioner against the order of transfer has not yet been disposed of .</p> <p>(6) The petitioner being a member of the executive and one of the leaders of the Union , the competent authority has transferred the petitioner to Dhenkanal out of vindictiveness.</p> <p>2. True it is , that the petitioner might have married a lady serving in the Film Development Corporation at Cuttack 15 days ago but transfer orders are always passed by the appropriate authority subject to exigency of service, we cannot interfere on that ground.</p> <p>3. As regards illness of the father of the petitioner besides the bare statement of the petitioner and the statement of the learned counsel on petitioner's instruction , there is no document before us to corroborate the statement of the learned counsel received on instructions from his client that the petitioner's father is ill . We have carefully considered the contents of Annexures-4 and 5. They are merely advisory but not mandatory.</p>	

As regards Annexure- 10 , Central Government is not bound to accept the recommendationsof the State Government. Hence we cannot say on that ground that there was malafide in the transfer order of the petitioner to Dhenkanal.

As regards the representation not being disposed of , we would say <sup>equally</sup> that it does <sup>if it so, the case is barred by s 20 of the Adm. Tribunal Act.</sup> not make out a case of malafide/. The last ground regarding the submission made at the Bar , the petitioner being a member of the executive of the Union , the appropriate authority was persuaded by vindictiveness <sup>to</sup> of transfer ~~to~~ the petitioner from Cuttack to Dhenkanal is equally a bare statement of facts made by the petitioner in the application and submitted by the learned counsel on instruction. There is no evidence to the above effect and therefore we are slow to accept this contention. Hence the application is not admitted which stands dismissed leaving the parties to bear their own costs .

  
Vice Chairman.

  
Member (Judl.)