

(11)

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH

ORIGINAL APPLICATION No. 29 OF 1987.

Date of decision .. September 24, 1987

1. R.P. Meshram.
2. Dubba Samiaya.

Both Lecturers,  
Government Higher Secondary School,  
At & P.O- Pakhanjore, Dist- Baster,  
Madhya Pradesh, Pin- 494 776.

.. Applicants.

Versus

1. Union of India,  
through the Secretary,  
Ministry of Home Affairs,  
Department of Home Affairs,  
Jaisalmer House, Mansingh Road,  
New Delhi.
2. Chief Administrator,  
Dandakaranya Development Authority,  
Koraput, At & P.O. Koraput,  
District- Koraput (Orissa).

.. Respondents.

M/s B.Pal, O.N. Ghose &  
S.C. Parija, Advocates .. For Applicants.

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)

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1. Whether reporters of local papers may be allowed to see the judgment ? Yes .
2. To be referred to the Reporters or not ? <sup>Ans</sup> 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, transfer of both the petitioners along with the institution in which they were serving to the State Government by the Dandakaranya Development Authority is under challenge.

2. Succinctly stated, the case of the applicants is that they were Lecturers in a Government Higher Secondary School within the State of Madhya Pradesh under Dandakaranya Development Authority whose Head Office functions at Koraput within the State of Orissa. Since the Dandakaranya Development Project is at the stage of being wound up, the services of both the applicants along with the institution in which they were serving were transferred to the State Government. Being aggrieved by this order, the applicants have filed this application with a prayer to cancel such order of transfer to the State Government and to order deployment of the applicants to the surplus cell.

3. In their counter, the respondents maintained that according to the conditions of service prescribed by the appropriate authority and according to the terms and conditions offered to the petitioners at the time of their appointment and by virtue of such acceptance, the applicants have no locus-standie to go back upon those terms and conditions and it is too late in the day for

the applicants to urge for their deployment to the surplus cell.

4. We have heard Mr. Pal, learned counsel for the applicants and Mr. A.B. Misra, learned Sr. Standing Counsel for the Central Government at some length. Mr. Pal emphatically and strenuously urged before us that the condition mentioned forming subject-matter of Annexure-1 having been repelled, the applicants are entitled to the deployment to the surplus cell. In a nut shell, Mr. Pal contended that the previous circular issued by the appropriate authority was that the employee has to be transferred to the State Government along with the institution vide Annexure-1 and with a further condition that such condition shall not remain in force for the future, the applicants have a right to claim that they should have been deployed to the surplus cell. We cannot agree with Mr. Pal because under Annexure-2 the very same condition as was prevalent prior to issuance of Annexure-1 has been incorporated. Appointment of the applicants is admittedly after issuance of Annexure-2 and therefore, the condition mentioned in Annexure-2 forms subject-matter of the condition of appointment offered to the applicants which they have ungrudgingly accepted namely in the event of the institution being wounded up their services would be transferred to the State Government along with the institution itself. This condition of service offered to the applicants forms subject matter of Annexure R-3 and R-4. Under Annexure-R/1 and R/2 both the applicants have undertaken

that consequent upon being appointed as Lecturers under the Dandakaranya Project, <sup>they</sup> we shall abide by the terms and conditions of offer of appointment and in the event of transfer of the institution to the State Government <sup>they</sup> we shall be liable for transfer to the State Government <sup>by</sup> along with the institutions on the terms and conditions offered by them, and that <sup>they</sup> we shall be liable for termination without assigning any reasons. Instead of terminating the services of the applicants without finding any reasons, the Dandakaranya Development Authority, we think, have taken a lenient view in the matter and have transferred the services of the applicants along with the institution to the State Government. In view of the aforesaid facts and circumstances, we find no illegality to have been committed by the appropriate authority. Incidentally we may mention that in a similar matter namely, Om Prakash Ram v. Union of India & others forming subject matter of Original Application No. 25 of 1987 disposed of by this Bench on August 19, 1987, we have taken the very same view and we do not find any reason to take a different view in the present case other than what has been taken in O.A. No. 25/87. We have already heard the learned Sr. Standing Counsel on this matter. We find no merit in the application which stands dismissed leaving the parties to bear their own costs.

*Kept on file*  
24.9.87  
Member (Judicial)

B.R. PATEL, VICE CHAIRMAN, *I agree.*

Central Administrative Tribunal  
Cuttack Bench, Cuttack.  
September 24, 1987/Roy.

*Br. 24.9.87*  
Vice Chairman.