

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No.129 of 1988.

Date of decision : August 19, 1988.

K.S.R.C.Murty Odayer, aged about 56 years,
son of K.Venkuna, Inspector of Works,
Office of the S.E.Railway, Bhadrak, P.O. Charampa
District- Balasore. ...

Applicant

Versus

1. Union of India, represented through
General Manager, S.E.Railway, Garden Reach,
Calcutta- 43.
2. Divisional Railway Manager,
South Eastern Railway, Khurda Road,
P.O.Jatni, District- Puri.
3. Senior Divisional Engineer,
South Eastern Railway, Khurda Road,
P.O.Jatni, District-Puri.
4. Divisional Personnel Officer,
South Eastern Railway, Khurda Road,
P.O.Jatni, District-Puri.

...

Respondents.

For the applicant ... M/s. S.K. Nayak-1,
A.K. Baral, &
K. Ray, Advocates.

For the respondents ... Mr.R.C.Ratha, Standing Counsel
(Railways)

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

K.P.ACHARYA, MEMBER (J)

In this application under section 19 of the Administrative Tribunals Act, 1985, the order of transfer passed by the competent authority transferring the applicant from Bhadrak to Khurda Road is under challenge.

2. Shortly stated, the case of the applicant is that at present he is an Inspector of Works, Grade I under South Eastern Railway posted at Bhadrak. Recently he was promoted to the said post on ad hoc basis. Vide Annexure-1 dated 8th March, 1988 the applicant has been transferred to Khurda Road. Being aggrieved by this order of transfer, the applicant has invoked the jurisdiction of this Bench for quashing the order of transfer.

3. In their counter, the respondents maintained that there being no post of Inspector of Works, Grade I at Bhadrak, it is difficult to retain the applicant in the said post at Bhadrak and therefore on administrative exigencies the applicant has been transferred to Khurda Road. There being no malafide intention behind this order of transfer, it should not be interfered with by this Bench and the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. S. K. Nayak-1, learned counsel for the applicant and learned Standing Counsel appearing for the Railway Administration, Mr. R. Ch. Ratha at some length. Law is well settled that the order of transfer could be struck down only when it is backed by malafide intention or as a measure

of punishment. The order of transfer could also be struck down where it deserves merit on questions of fact. In the present case we find no favourable circumstance in favour of the applicant to strike down the impugned order of transfer. Mr. Nayak-1, very emphatically submitted before us that the statement made in the counter that there is no post of Inspector of Works, Grade I at Bhadrak is incorrect and completely wrong. We do not feel inclined to enter into a roving inquiry as to the truth or otherwise of the statement. On the other hand, Mr. Ratha, learned Standing Counsel appearing for the Railway Administration reiterated his stand that there is no such post at Bhadrak. Such being the situation we do not feel inclined to strike down the order of transfer. But the applicant's counsel having emphatically submitted that such a post is in existence and his wife is seriously ill, we would leave it to the competent authority to reconsider the matter, if possible and pass orders accordingly.

5. Subject to the aforesaid observations, this application is accordingly disposed of leaving the parties to bear their own costs.

by a.m.sarangi
19.8.88
.....
Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

I agree.

B.R.PATEL
19.8.88
.....
Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
August 19, 1988/S. Sarangi.