

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

Original Application Nos. 167 & 192 of 1988.

Date of decision: August 26, 1988.

O.A.No. 167 of 1988

M.S.Mukherjee, Junior Engineer (Civil)
Bhubaneswar Central Division, C.P.W.D.,
Bhubaneswar

....

Applicant

Versus

Union of India, through its Superintending Engineer,
Coordination Circle, (Eastern Zone), Central Public
Works Department, Nizam Palace, 234/4 Acharya J.C.Bose Road,
Calcutta- 20.

....

Respondent.

M/s S.Misra (1), S.N.Misra
and Mrs. R.Sikdar, Advocates ...

For Applicant.

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

For Respondents.

O.A.No.192 of 1988

Subhash Ch. Das, son of Sukumar Das,
Junior Engineer, C.P.W.D.
Bhubaneswar Central Division,
Unit 8, Nayapalli,
Bhubaneswar, Dist- Puri.
At-CPWDQrs. No.2, Unit IV,
A.G.Colony, Bhukaneswar, Dist- Puri.

Applicant.

Versus

1. Union of India, represented by
the Superintending Engineer,
Coordination Circle, (EZ),
C.P.W.D., Calcutta-20,
Nizam Palace, 234/4,
Acharya J.C.Bose Road,
Calcutta-20.

6

2. Executive Engineer, C.P.W.D.
 Central Division, Bhubaneswar,
 Unit 8, Nayapalli, Bhubaneswar,
 Dist- Puri.

..... Respondents.

M/s B.L.N.Swamy &
 B.V.B. Das, Advocates For Applicant.

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 permitted to see the judgment ? Yes .

2. To be referred to the Reporters or not ? ~~Av-~~

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

JUDGMENT

K.P.ACHARYA, MEMBER (J), We have heard both these cases on merits separately from the counsel appearing for either side and we propose to deliver a common judgment to govern both the cases for the sake of convenience .

2. Shortly stated, the case of the petitioner in Original Application No. 167 of 1988 is that he is a Junior Engineer (Civil) of the Central Public Works Department stationed at Bhubaneswar . The petitioner having been transferred to Guwahati, vide Annexure A/3 dated 11.5.1988 has come up before this Bench with a prayer to strike down the impugned order of transfer.

The petitioner in Original Application No.192 of 1988 is also a Junior Engineer (Civil) of the Central Public Works Department stationed at Bhubaneswar. Vide Annexure-3 he has also been transferred to Guwahati for which he feels aggrieved and comes up with a prayer similar to the prayer of the petitioner in O.A.No. 167 of 1988, namely, to quash the impugned order.

3. We have heard Mr. S.Misra (1), learned counsel for the petitioner in O.A.No. 167/88 and we have heard Mr. B.V.B.Das, learned counsel for the petitioner in O.A.192/88 and Mr. A.B.Misra, learned Sr. Standing Counsel for the Central Government at some length in both these cases . In O.A.No. 167 of 1988 Mr. S.Misra (1) vehemently urged before us that apart from other points urged by the petitioner in his application to strike down the order of

transfer, the most important point is that of the education of the daughter of the petitioner. According to the petitioner, his daughter is continuing her study in + III class in the Regional College of Education, Bhubaneswar under Utkal University. It was contended by Mr. Misra that at this juncture if the petitioner takes his daughter to Guwahati, according to rules, the education of the daughter has to begin from + I class of the Guwahati University as the petitioner's daughter has to clear all the three examinations meant for + I, + II and + III - courses of studies of the Utkal University and Guwahati University being completely different. Mr. Misra further contended that at this juncture, if the petitioner moves out from Bhubaneswar then it would be a death blow to the education of his daughter which is ^{of} paramount consideration for any parent. We have no dispute with this submission of Mr. Misra especially when it is not controverted in the counter regarding the fact that the daughter of the petitioner is studying in Regional College of Education at Bhubaneswar. However much daughter's education and the parent's anxiety for the children's education may heavily weigh with us, equally it very much weighs with us, the fact that 63 persons have been transferred ⁱⁿ All India basis and we are not aware of the difficulties that would be faced by the Administration if the order of transfer of one person is struck down. This matter can be well judged by the authority who has passed the transfer order. He would be in a better position to know whether the Administration

W.M.

CJ

would suffer in any way if a compassionate view is taken over the petitioner's daughter at least till 31.5.1989. We are sure that the education of the daughter of an employee would heavily weigh with the employer and in such circumstances we leave it to the competent authority to reconsider the matter and repost the petitioner at Bhubaneswar, if possible, till 31.5.1989 and Mr. S. Misra (1) on behalf of the petitioner submits that the petitioner will move out from Bhubaneswar by 15.6.1989 and will not make any further grievance on this question.

4. As regards Original Application No. 192 of 1988 is concerned, having heard Mr. Das on the question of transfer of the petitioner, we are told that the petitioner's children are studying in the Central School at Bhubaneswar. There is no dispute regarding the fact that a Central School is also functioning at Guwahati and therefore, we do not think that the studies of the children of the petitioner in the Central School at Bhubaneswar would be affected in any manner whatsoever. Therefore, we find no merit in the application forming subject -matter of O.A.No. 192/88 which stands dismissed.

5. Thus, Original Application No. 167 of 1988 is disposed of and Original Application No. 192 of 1988 is dismissed. In the peculiar circumstances of the cases, parties to bear their own costs in both the cases.

B.R. PATEL, VICE CHAIRMAN, 9 agree.

R. Patel 26.8.88
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Member (Judicial)

R. Patel 26.8.88
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Vice Chairman.