

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

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Original Application No.325 of 1988.

Date of decision : November 11, 1988.

K.S.R.C.Murty Odayer, son of K.Venkuna,
56 years, Inspector of Works, Office of
the South Eastern Railway, Bhadrak,
P.O. Charampa, Dist-Balasore.

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Applicant.

Versus

1. Union of India, represented through the General Manager, S.E.Railway, Garden Reach, Calcutta-43, West Bengal.
2. Divisional Railway Manager, South Eastern Railway, Khurda Road, P.O.Jatni, Dist-Puri.
3. Senior Divisional Engineer, South Eastern Railway, Khurda Road, P.O.Jatni, Dist-Puri.
4. Divisional Personnel Officer, South Eastern Railway, Khurda Road, P.O.Jatni, Dist-Puri.
5. Asst. Engineer (i), S.E.Railway, Cuttack.

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Respondents.

For the applicant M/s.S.K.Nayak-1,
A.K.Baran,
R.K.Kar, Advocates.

For the Respondents Mr.R.C.Rath, Standing Counsel
(Railways)

SCORAM:

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 ?
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 applicant prays to strike down the order of transfer passed by the competent authority transferring the applicant from Bhadrak to Khurda Road.

2. Shortly stated, the case of the applicant is that while he was working at Bhadrak as Inspector of Works, Grade I, he was transferred to Khurda Road. Being aggrieved by this order, the present application has been filed by the applicant with the aforesaid prayer.

3. In their counter, the respondents maintained that 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 Mr. R. C. Ratha, learned Standing Counsel for the Railway Administration at some length. Incidentally it may be mentioned that the very same matter came up before us whereⁱⁿ the applicant had prayed to quash the order of transfer and it formed subject matter of O.A.129 of 1988. By our judgment dated 19th August, 1988 we found that there was no merit in the application and therefore we did not strike down the order of transfer but we had said that the competent authority may be moved for reconsideration. Thereafter, the applicant has come up again. The contention of Mr. Nayak-1 is that the applicant had made a representation to the Divisional Personnel Officer to reconsider the case of the applicant in the light of the observations made by this Bench in O.A.129 of 1988. The Divisional

Personnel Officer not having passed any order, an order has been passed by the Assistant Engineer, Cuttack vide Annexure-5 directing the applicant to hand over charge of Office to Shri S.Ramaiah without any further delay. This eventually means that the Divisional Personnel Officer has not passed any orders on the representation of the applicant. Mr.R.C.Ratha while repudiating the aforesaid arguments of Mr.Nayak-1, submitted that there was no direction from this Bench asking any particular authority to reconsider the matter. Therefore, it was not obligatory on the part of the Divisional Personnel Officer, to pass any orders and it was also submitted that the Divisional Personnel Officer might have considered the representation of the applicant and his orders have been communicated by the Assistant Engineer. By this it does not mean that the applicant's representation has not been reconsidered. If the applicant's representation has been considered by the Divisional Personnel Officer and his orders are being communicated by the Assistant Engineer, we think there cannot be any fruitful purpose achieved by the applicant in renewing his representation. In case, the order of the Assistant Engineer contained in Annexure-5 is not the outcome of the orders passed by the Divisional Personnel Officer we would direct, if the representation of the applicant contained in Annexure-4 is still pending before the Divisional Personnel Officer, it should be considered by the Divisional Personnel Officer and orders should be

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passed within one month from today, In case, the Divisional Personnel Officer has passed orders, this judgment shall have no further effect. In conclusion we would say we do not feel inclined to strike down the order of transfer. We leave it to the Divisional Personnel Officer to act according to the indications given above. The stay order passed by this Bench stands automatically vacated, if the Divisional Personnel Officer has disposed of the representation addressed to him by the applicant contained in Annexure-4. But if he has not disposed of, the applicant is allowed to continue at Bhadrak till the disposal of the representation contained in Annexure-4.

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

Agree
..... 11. XI. 88
Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

I agree.

Agree
..... 11. XI. 88
Vice-Chairman

Central Administrative Tribunal.,
Cuttack Bench, Cuttack.
November 11, 1988/S. Sarangi.

