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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 347 of 1988

Date of decision: February 3, 1989

Dr. L. N. Das,
aged about 54 years,
son of Late Dinabandhu Das
at present working as Senior
Medical Officer Incharge of P & T
Dispensary, At/P.O./Dist. Cuttack. Applicant

-Versus-

1. Union of India represented by
its Secretary, Department of Health
& Family Welfare, Nirmam Bhavan,
New Delhi.
2. Director (Medical) Department of
Posts, Government of India
Dak-Tar Bhavan, New Delhi.
3. Under Secretary to Govt. of India
Ministry of Health, & Family Welfare,
New Delhi.
4. Postmaster General, Orissa Circle,
At/P.O. Bhubaneswar, Dist. Puri. Respondents

For the Applicant M/s. Deepak Misra, R.N. Naik
& A. Deo., Advocates

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

C O R A M :

THE HON'BLR 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 Judgement ? Yes
 2. To be referred to the Reporters or not ? (✓)
 3. Whether Their Lordships wish to see the fair
copy of the judgement ? Yes.
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J U D G M E N T

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 Cuttack to Allahabad vide Annexure-3 is under challenge

2. Shortly stated, the case of the applicant is that he is the Medical Officer in charge of P & T Dispensary, Cuttack and vide Annexure-3^{at} has been transferred to Allahabad. The applicant seeks to quash this order.

3. In their counter, the respondents maintained that no illegality has been committed for having passed the impugned order and it is passed due to exigencies of service. In such circumstances, the transfer order should not be unsettled.

4. We have heard Mr. Deepak Misra, learned counsel for the applicant and Mr. A.B. Mishra, learned Senior Standing Counsel (Central) at some length. Mr. Deepak Misra submitted that the wife of the present applicant is a Lecturer in Botany in the S.B. Women's College, Cuttack and transfer of the applicant to Allahabad would go against the policy of the Government as laid down in circular No. 28034/7/76/- Estt. (A) dated 3.4.1986 issued by the Ministry of Personnel and Public Grievances and Pensions (Department of Personnel and Training) New Delhi. According to Mr. Deepak Misra, therein it is stated that if one spouse is serving under the State Government in a particular station and the other spouse serving under the Central Government, all efforts should be made to post the spouse serving under the Central

Government in the same station in which the other spouse is serving. The competent authority must have noticed this circular but Mr. Deepak Misra having submitted that this circular might have escaped the notice of the competent authority and for that purpose a representation has been filed by the applicant vide Annexure-2 which is pending consideration of the Deputy Secretary, Government of India, Ministry of Health & Family Planning (Department of Health), New Delhi, who is not competent to consider the same and therefore Mr. Deepak Misra submitted that a fresh representation would be filed by the applicant before the competent authority for necessary consideration within seven days from today. We would repeat that these are the matters for consideration of the competent authority in the Government and we cannot do anything. In case, any representation is filed before the competent authority within seven days, the same should be considered keeping the guidelines in view and orders be passed according to law. In case, the competent authority cancels the order of transfer and posts the applicant at Cuttack nothing more is to be done. But, if the representation is rejected by the competent authority then, the applicant is bound to handover the charge at Cuttack and join at Allahabad within 15 days from the date of order passed by the competent authority. We hope, the competent authority would pass orders within two months from the date of filing of the representation and till then we extend the stay order and the stay order will remain effective till 15th April, 1989 within which period we hope, the representation

will be disposed of . In case, no representation is filed by the applicant by 10th instant, then all the aforesaid observations would become ineffective and the applicant will hand over the charge of his office by 15th February, 1989 and join at Allahabad thereafter.

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

[Signature]
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Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

I agree.



Central Administrative Tribunal,
Cuttack Bench, Cuttack.
February 3, 1989/Saranghi.

[Signature]
3.2.89
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Vice-Chairman