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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No. 436 of 1988.

Date of decision : July 20, 1989.

Gouranga Ch. Poi, aged about 36 years,
son of Sri Laxmidhar Poi, at present
working as Lower Division Clerk, Office of the
Assistant Collector, Central Excise & Customs,
Cuttack Division, At/P.O./District-Cuttack.

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Applicant.

Versus

1. Union of India, represented by
its Secretary, Department of Revenue,
Ministry of Finance, New Delhi.
2. Collector, Central Excise & Customs,
Orissa, At, P.O. Bhubaneswar, District-Puri.
3. Deputy Collector, P & E.,
Central Excise & Customs,
At/P.O. Bhubaneswar, Dist. Puri.

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Respondents.

For the applicant ... M/s. Devanand Misra,
Deepak Misra,
R.N. Naik & Anil Deo,
Advocates.

For the respondents ... Mr. A.B. Mishra,
Sr. Standing Counsel (Central)
Mr. Tahali Dalai,
Addl. Standing Counsel (Central)

C O R A M :

THE HON'BLE MR. B. R. PATEL, VICE-CHAIRMAN

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 His Lordship wishes to see the fair copy of the judgment ? Yes.

JUDGMENT

B.R.PATEL, VICE-CHAIRMAN, In this application filed under section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for quashing the order of transfer dated 21.12.1988 passed by the respondents and to further direct respondents to give the applicant posting either at Cuttack or at Bhubaneswar as there are vacancies in the cadre of Lower Division Clerks.

2. This case is an offshoot of the case, Original Application No. 263 of 1987, judgment of which was delivered on 18.11.1988 remitting the case to the competent authority for reconsideration of the orders of transfer, transferring the applicant from Cuttack to Sambalpur. In the aforesaid judgment it was observed as follows :

" Keeping in view the overall situation of this case, as indicated above, though we do not feel inclined to quash the order of transfer at Annexure-1 we would say that the competent authority may reconsider the case of the applicant in regard to his transfer to Sambalpur especially because his wife has been posted at Cuttack and try to adjust the applicant, if possible, either at Cuttack or any other stations nearer to Cuttack including Bhubaneswar. We would expressly say that Annexure-1 remains effective subject to reconsideration of the case of the applicant by the competent authority in the light of the observations made above. Such reconsideration and final orders should be passed by the competent authority preferably by 20th December, 1988 and the stay order granted by this Bench will remain effective till 25th December, 1988 or the date on which final order is passed whichever is earlier. "

In pursuance to the directives given in the aforesaid judgment the applicant made a representation to the competent authority vide Annexure-3. The Assistant

[Signature]

Collector, Central Excise & Customs, Cuttack vide his letter dated 16.12.1988 recommended the retention of the applicant at Cuttack. The Deputy Collector, Central Excise & Customs, Respondent No. 3 however rejected the representation and reaffirmed the order transferring the applicant from Cuttack to Sambalpur.

3. I have heard learned counsel for the applicant and Mr. Tahali Dalai, learned Additional Standing Counsel (Central) for the respondents. Learned/ vehemently urged before me that since it has been the policy of the Government to keep the husband and wife together in one place, not only in the interest of persons concerned but also in the interest of administration, the orders of the Deputy Collector, Central Excise & Customs, reaffirming the earlier order of transfer, should be quashed. Mr. Dalai, on the other hand, contended that this very ground had been put forth before the Bench at the time of hearing of the earlier case i.e. O.A. 263 of 1987 and after considering all aspects the Bench decided in their judgment as has been quoted above and as such there is no cause for reconsideration of the transfer of the applicant. Moreover, the competent authority after considering all aspects in the interest of administration has decided that the applicant should go to Sambalpur. As the action of the competent authority is in accordance with the directions of this Bench there is hardly any scope for me to interfere. In paragraph 2 of their counter the respondents have

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however stated as follows :

" That the matter was reconsidered by the competent authority. As it was administratively not possible now to accommodate the applicant at Cuttack or near about Cuttack or at Bhubaneswar, by order dt. 20.12.88 vide Annexure-R-1 applicant was ordered to be relieved for Sambalpur. "

This paragraph suggests that the posting of the applicant at Sambalpur is not a permanent arrangement and that at appropriate time considering the interest of administration they will consider the posting of the applicant at Cuttack or any place near about Cuttack or Bhubaneswar. I also feel that no posting will be for all time to come. Transfer of employees from place to place is done according to the exigencies of administration. I do appreciate the contention of the respondents that transfer is an ~~incident~~ of public service and public service should have priority of consideration in all cases of transfer and posting. I also appreciate the stand of the respondents that even though the applicant's wife is working at Ravenshaw College, Cuttack, it will not be possible for the Department to keep the applicant always and for all time to come at Cuttack or Bhubaneswar. The Department has however acknowledged the fact that the applicant's wife is working at Cuttack. The earlier doubt of the Department in regard to the wedlock of the applicant, I think has been removed in view of our observation in the judgment in O.A. 263 of 1987. It would, therefore, be in the interest of administration as well as the employee, if the applicant is posted at Cuttack or Bhubaneswar or any place near about these two stations



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after the applicant has served at Sambalpur for a considerable period. I direct accordingly. The applicant should now join at Sambalpur if he has not already joined there.

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

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Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
July 20, 1989/Sarangi.

