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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No.105 of 1988.

Date of decision : August 2,1988.

Dr.S.Saha, son of D.C.Saha
Medical Superintendent, S.E.
Railway, Khurda Road, P.O.Jatni,
District- Puri Applicant.

Versus

1. Union of India through the General Manager, S.E.Railway, Garden Reach, Calcutta-43.
2. Chief Personnel Officer, S.E.Railway, Garden Reach, Calcutta-43.
3. Chief Medical Officer, S.E.Railway, Garden Reach, Calcutta-43. .. Respondents.

For the applicant : Mr. G.A.R.Dora, Advocate.

For the respondents : Mr.B.Pal, Senior Standing Counsel (Railways)

C O R A M S :

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 applicant challenges the order passed by the competent authority transferring him from Khurda Division to Adra Division contained in Annexure-A/2.

2. Shortly stated, the case of the applicant is that he is a Medical Superintendent under the South Eastern Railway posted at Khurda Road. The applicant vide Annexure-A/2 has been transferred and posted as Medical Superintendent (I/C), Adra Division. Being aggrieved by this order of transfer, the applicant has come up with the present application with a prayer to quash the same.

3. In their counter, the respondents maintained that no illegality having been committed in the order passed by the competent authority and transferring the applicant to Adra Division, the same should not be struck down and the case being devoid of merit, is liable to be dismissed.

4. Mr. Dora, learned counsel for the applicant submitted before us that the applicant being a member of the Scheduled Castes, should not have been transferred as the higher authorities have issued instructions that members of the Scheduled Castes should not be normally transferred unless there are very compelling reasons. This argument does not appeal to us because the transfer of a member of the Scheduled Castes can occur in exigencies of service and that apart, such instructions contained in Annexure-3 applies to the staff and not to the Officers. Therefore, we find no merit in the aforesaid contention of Mr. Dora.

5. Secondly, it was urged by Mr.Dora that the applicant is on the verge of retirement on superannuation and he would retire on superannuation on 31.1.1989. Mr.Dora invited our attention to Annexure-A/5 and particularly to extract of C.P.O.'s con.letter No.P/R/Con/TR dated 10.6.1981 which runs thus :

" The man with longest stay should be shifted first and those who are on verge of retirement within one or two years may be exempted if there are no serious complaints. "

This argument advanced by Mr.Dora was vehemently and stiffly opposed by Mr.Pal, learned Senior Standing Counsel for the Railway Administration submitting that for administrative exigencies the applicant having been transferred the above quoted circular will have no application to the facts of the present case and therefore, Mr.Pal submitted that the application should stand dismissed. The undisputed position before us is that the applicant would retire on superannuation on 31.1.1989 and therefore, there is barely 6 months left for his retirement on superannuation. We feel that at this stage, the transfer of the applicant from Khurda Division to Adra Division would be a great hardship to him and in such circumstances, we are unable to accept the vehement opposition of Mr.Pal and we do hereby quash the order of transfer contained in Annexure-A/2 transferring the applicant from Khurda Division to Adra Division.

6. Thus, this application stands allowed leaving

the parties to bear their own costs.

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2-8-88*
Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,



*B.R.PATEL
2-8-88*
Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
August 2, 1988/S. Sarangi.