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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No.41 of 1989.

Date of decision: March 31, 1989.

Shri Kishore Chandra Mohapatra,
son of late Balaram Mohapatra, aged about
50 years, At.B.Ed.Street,P.O./Dist.Ganjam.

... Applicant.

Versus

- 1. Union of India, represented by its
General Manager, South Eastern Railway,
Garden Reach, Calcutta.
 - 2. Senior Divisional Operating Superintendent,
South Eastern Railway, Khurda Road, P.O.
Jatni, Dist.Puri.
 - 3. Station Superintendent, South Eastern
Railway, At/P.O.Jagannathpur, Dist-
Ganjam.
- ... Respondents.

For the applicant ... Mr. Deepak Misra, Advocate.

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

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 allowed to
see the judgment ? Yes.
- 2. To be referred to the Reporters or not ? ND
- 3. Whether Their Lordships wish to see the fair copy
of the judgment ? Yes.

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 applicant seeks to quash the order of transfer passed by the competent authority transferring the applicant from Jagannathpur to Cuttack.

2. Shortly stated, the case of the applicant is that he is a railway employee and was discharging the duties of Deputy Station Superintendent of Jagannathpur Railway station within the district of Ganjam. Vide Annexure-1 dated 2.2.1989 the applicant has been transferred from Jagannathpur to Cuttack Railway Station for which he feels aggrieved and has come up with this application with the aforesaid prayer.

3. In their counter, the respondents maintained that the impugned order of transfer has been passed in the interest of exigencies of service and for the interest of administration and for the interest of the applicant. The impugned order of transfer is also a composite order (the details of which would be mentioned hereunder). The case of the respondents is that in view of the aforesaid facts and circumstances, the applicant has been rightly transferred from Jagannathpur to Cuttack and the order of transfer should not be unsettled in any circumstances.

4. We have heard Mr. Deepak Misra, learned counsel for the applicant and Mr. B. Pal, learned Senior Standing Counsel for the Railway Administration at some length.

Mr. Misra vehemently pressed before us that the applicant had been transferred from Ganjam to Jagannathpur on 21.3.1988 and he joined at Jagannathpur on 14.5.1988. Before lapse of one year the authorities have been very cruel to him in transferring him to Cuttack which would jeopardise the interest of his children who are being educated at Jagannathpur. Hence, Mr. Misra strenuously urged before us that the order of transfer should be quashed. On the other hand, it was contended by Mr. Pal, learned Senior Standing Counsel for the Railway Administration with equal vehemence that in the interest of the applicant, he should not continue at Jagannathpur. Mr. Pal contended that because a criminal case was launched against the applicant in Purushottampur P.S. which has been registered as case No. 91 of 1988 giving rise to G.R. Case No. 329 of 1988 under section 420/34 of the Indian Penal Code, the applicant at first had been placed under suspension and thereafter, the concerned authority took a sympathetic view on the representation filed by the applicant and revoked the order of suspension and simultaneously passed an order of transfer transferring the applicant from Jagannathpur to Cuttack. In these circumstances, in the interest of the applicant, he should not continue at Jagannathpur. Mr. Pal also submitted that in the interest of administration he has been transferred to Cuttack which should be sustained.

5. We have given our anxious consideration to the arguments advanced at the Bar. We are unable to agree

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with Mr. Misra that the order of transfer was backed by malafide because had there been any malafide or bias against the applicant on the part of the concerned authorities, then it would not have ~~revoked~~ the order of suspension. The very fact that the order of ^{suspension} ~~transfer~~ has been revoked, by the competent authority, by no stretch of imagination we could conceive that there was any malafide or bias on the part of the competent authority. We are in complete agreement with the submission made by Mr. Pal that in the interest of administration and in the interest of the applicant, he should not continue at Jagannathpur Railway Station at least till the finality of the criminal case is reached. Due to the aforesaid reasons, we do not find any merit in this case which stands dismissed. However, it was told to us by Mr. Misra that the children of the applicant are prosecuting their studies at Jagannathpur. The children should not be ~~be~~ punished in any manner. We are aware of the anxiety of a father towards the education of his children. The guilt or otherwise of the applicant in the criminal case has yet to be determined. In a criminal case accused is presumed to be innocent until contrary is proved. Therefore, in such circumstances, we would direct that the family of the applicant should not be evicted from the quarters allotted to the applicant at Jagannathpur till the end of June, 1989.

6. Subject to the aforesaid observations, this application stands ~~dismissed~~ leaving the parties to bear their own

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costs. The stay order passed by this Bench on 7.2.1989 stands automatically vacated.

[Signature]
.....31.3.89.....
Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

I agree.



[Signature]
31.3.89
.....
Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
March 31, 1989/Saranghi.