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CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH
CUTTACK.

Original Application No. 199 of 1990.

Date of decision: March 15, 1991.

R.J.Rao

...

Applicant.

Versus

Union of India and others ...

Respondents.

For the applicant ... M/s. Deepak Misra,
R.N.Naik,
A.Deo,
B.S.Tripathy, Advocates.

For the respondents ... Mr.D.N.Misra,
Standing Counsel (Railways)

C O R A M:

THE HONOURABLE MR.K.J.RAMAN, MEMBER (ADMN.)

A N D

THE HONOURABLE MR.N.SENGUPTA, 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.

J U D G M E N T

N.SENGUPTA, MEMBER (J) The applicant herein has asked for a direction for quashing the order of transfer contained in Memo No. P/Mech/Rg/FMII/Posting 90/34 dated 24.4.1990.

2. The case of the applicant, put in brief, is that he was a Steam Engine Driver and there was an accident. A disciplinary proceeding was started against him, also simultaneously a criminal case was filed in the court of

Deepak Misra

the Sub-Divisional Judicial Magistrate, Bhadrak. In that disciplinary proceeding an order of compulsory retirement was passed against which order he approached this Tribunal in O.A.108 of 1989 and this Tribunal quashed the order of compulsory retirement. Thereafter he was reinstated in service at Bhadrak but the Administration with a malafide motive transferred him from Bhadrak to Khurda Road, so as to harass him and disable him from defending himself in the criminal case pending in the court of Sub-Divisional Judicial Magistrate, Bhadrak.

3. The case of the respondents is that Steam Engines were withdrawn from Bhadrak junction. So the applicant being a Steam Engine Driver under the revised pin-pointing scheme had to be transferred to Khurda Road where Steam Engines are used for shunting and other purposes. They have denied the allegations of malafide on the part of the Department.

4. We have heard Mr. A. Deo, learned counsel for the applicant and Mr. D. N. Misra, learned Standing Counsel (Railway) for the respondents. During the course of argument it has come to be undisputed that the applicant has already joined at Khurda Road. Therefore, for all practical purposes the application has become infructuous. In the order of transfer, Annexure-A to the counter it would appear that 16 persons who were found to be surplus at different units had to be transferred from Bhadrak, so the applicant was not singled out. So we are unable to find any malafide. However, as it has been submitted

Recd 15/3

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by learned counsel for the applicant that the applicant has made a representation for his transfer back to Bhadrak which has remained undisposed of, all that we need to say is that in case there be necessity for a Steam Engine Driver at Bhadrak, the Department would consider the representation of the applicant for transfer back to Bhadrak on its own merits and having regard to the other surrounding circumstances then prevailing.

5. The case is accordingly disposed of. No costs.

K. M. Darwany
.....
Member (Admn.)

Abu Sayed 15/3/91
.....
Member (Judicial)

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
March 15, 1991/Sarangi.

