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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No.200 of 1990

Date of decision : August 03, 1990.

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Purna Chandra Naik and another : Applicants

- Versus -

Union of India and others : Respondents

For the applicants : M/s C.V. Murty, C.M.K. Murty,
S.K. Ratha, Advocate.

For the Respondents : Mr. Ganeswar Rath, learned
standing Counsel (Central

C O R A M :

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

A N D

THE HON'BLE MR. N. SENGUPTA, MEMBER (JUDICIAL)

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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 Lordship's wish to see the fair copy of the judgment ? Yes.
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J U D G M E N T

N.SENGUPTA, MEMBER (J), This case concerned an order of transfer of the applicants who are working as Sweeper and Safaiwalas in the Aviation Research Centre, Charbatia, to Sarswa and Doom Dooma . The grievance of the applicants is that the order of transfer, copy at Annexure-3 to the application, is arbitrary and against the accepted norms of transfer. Their case is they are low paid employees belonging to Group 'D' or Class-IV employees and if they are transferred to far off places, it will work such hardship that cannot be compensated. They have alleged that they made representations for cancellation of their order of transfer but the representations did not find favour with the authorities, a copy of the representation made by applicant No.1 is made annexure-4 to the application. They have also alleged that the order of transfer would adversely affect the education of their children. After filing of the counter, the applicants have filed a rejoinder to which they have annexed a Circular-cum-guidelines-cum-instructions relating to transfer which is at Annexure-5. The relief that the applicants have sought is for quashing Annexure-3, the order of transfer.

2. The Respondents in their counter have averred that a rotational transfer of the employees of the Aviation Research Centre (A.R.C.) Charbatia is made. The applicants were appointed on the express condition that they could be posted any where in India. According to the system of the rotational transfer some Sweeper and Safaiwala who were

appointed and posted at Charbatia, were transferred to Sarswa Doom Dooma and they having completed their tenure at those places, are due to return back to their home State i.e. Orissa and posted at Charbatia. If the transfer order at Annexure-3 is quashed it would tantamount ^{to} ~~for~~ asking the persons already transferred to remain in the present places of posting for all times to come and that would definitely work hardship.

3. We have heard Mr. C.V. Murty, learned Counsel for the applicants and Mr. Ganeswar Rath, Learned Standing Counsel (Central) for the Respondents and perused the papers. Normally regard being had to the emoluments that the Class-IV Government servants receive and the strata of society ~~they~~ ^{from} comes, endeavour is made to post ~~them~~ ^{their} near ~~the~~ permanent place of ~~posting~~ ^{residence} or in ~~the~~ home State. Keeping in view that principle, Annexure-5 the guidelines were issued. Paragraph-4 of Annexure-5 is relevant. In Sub-para(4) it has been provided that ~~normally~~ ^{S.S.B} Group 'D' employees and those in the lowest entry level shall normally not be subject to routine rotational transfers but those persons in the ~~necessary~~ ^{S.S.B} group would be subject to routine rotational transfers in the divisions. In paragraph-5 of the counter the Respondents have stated of two persons who have been ordered to ^{be} transfer ^{red} to Charbatia having completed their tenure at Doom Dooma and Sarswa, their present places of posting. These averments as well as the averment in para-6 of the counter have not been controverted

by the applicants even though they have chosen to file a rejoinder. This being the position, after hearing the learned counsels we are of the view that a direction be given to the Respondents to consider if the applicants can be accommodated nearer home without causing hardship to others of the same class. If it is not possible to accommodate the applicants, the order of transfer be given effect to. The case is accordingly disposed of leaving the parties to bear their own costs.

Pranab 8.8.90
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VICE-CHAIRMAN



Hea 8/8/90
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MEMBER (JUDICIAL)