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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 468 of 1990

Date of Decision ... 9 7. 1991

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Rama Chandra Nayak & others

Applicants

Versus

Union of India & others

Respondents

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For the applicants

M/s.Devanand Mishra,
Deepak Mishra, RN Naik,
A.Deo, B.S.Tripathy &
P.Panda, Advocates

For the respondents

Mr.A.K.Mishra, Senior
Standing Counsel (Central)

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C O R A M

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

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1. Whether reporters of local newspapers 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

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JUDGMENT

N. SENGUPTA, MEMBER (J), The applicants are Driver Habildars in Aviation Research Centre (ARC), Charbatia. The facts averred by them put in brief, are as under. Of the four applicants, applicant nos. 1 & 2 are Leading Fire Men in the Fire Service of the ARC, Charbatia and they were promoted to the rank of Driver Habildars but their promotion was to take effect on their joining at Doom Dooma. They went to Doom Dooma in 1981 and were re-transferred to Charbatia in 1984. The applicants 3 and 4 who were working at Doom Dooma were also transferred to Charbatia. On 10.1.91, the four applicants working in Charbatia were ordered to be transferred as Driver Habildars to Sarsawa. The ARC formulated a policy of transfer in February, 1988 according to which a rotational transfer is to be made. Their grievance is that some others such as Gateswar Swain, P.R.Rao and P.S.Das even after their promotion were not disturbed from Charbatia and subsequently another man who had previously refused promotion on account of transfer, on getting promotion later was retained at Charbatia and as they (applicants) have once again been transferred from Charbatia to Doom Dooma, the order at Annx.2 directing the transfer to take effect from 1.1.1991 is discriminatory. The applicants have prayed for quashing annexure-2 so far as it relates to them and for a direction to the respondents to follow the principles of rotational transfer. The respondents in their reply have stated that the applicants had made representations for bringing them back to Charbatia, accordingly in the year 1984 taking a sympathetic

*See p⁴
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view, they were transferred to Charbatia. The respondents have further averred that there has been no violation of the principles of rotational transfer and whenever any person made a representation on personal grounds, it was considered on its merits and nobody was discriminated against. The order at annexure-2 according to the respondents, was passed in the interests and exigencies of administration.

2. Annexure-3 is a copy of the circular relating to the transfer policy in ARC. Para 2(a) of annexure-3 provides that a person may be retained at the same station even after promotion subject to availability of a vacancy, if a person had earlier completed the required tenure at out station, he may be transferred to a suitable station depending on vacancy and need basis. Sub para (b) and (c) of para-2 of annexure-3 provide that transfers may be made on account of operational administrative ^{necessity} irrespective of duration of stay at a station, but however if a person is sought to be moved before completion of the normal tenure, the approval of the Director of the ARC is to be obtained and the rotational transfers are to be ordered keeping in view the need for economy. Para-3 deals with transfer of personnel belonging to Airwing Cadres and sub-para (b) provides that the priority of posting out will be governed by the longest stay at any base. Para-5 speaks that a minimum tenure of non-home station posting would be three years except North East Region and Leh where the tenures would be only two years. Some arguments have been addressed with regard to the principles to determine the longest stay at the home station, but they need not be noticed in detail in view of

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judgment of this Tribunal in OA 233/90 disposed of on 22.2.1991. In that case it was observed that posting out of home station twice can not said to be a violation of the instructions in the guidelines on policy of transfer. Mr. A.K. Mishra, learned Standing Counsel (Central) for the respondents has referred to the last sub-para of page-2 of the counter and has contended that persons other than the applicants who had completed their tenure on out station posting had to be brought back to Charbatia and that could only be done by transferring persons from Charbatia and keeping in view the stay of the applicants at Charbatia prior to the issue of order at annexure - 2, the applicants were asked to go to Sarsawa. There is of course no material to know the period of stay of the five Driver Habildars who are to be transferred to Charbatia but on referring to Annexure - 2 it would be found that four Driver Habildars are to come from Sarsawa to Charbatia, therefore, four persons from Charbatia had to be sent to Sarsawa to fill up the vacancy. From annexure-2 there does not appear to be any malafide intention on the part of the respondents in asking the applicants to go to Sarsawa after remaining at

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Charbatia for a little more than five years.

In view of the circumstances of the case, it is not possible to quash annexure-2. Since the respondents do not dispute rotational transfers are to be made and the applicants not being able to show that the guidelines for such a rotational transfer have violated, no direction for following the principles of rotational transfer is necessary. The case is accordingly disposed of. No costs.



Mr. E. S. S. S.
8-791
MEMBER (JUDICIAL)

Central Administrative Tribunal
Cuttack Bench, Cuttack
dated the 9th July, 1991/B.K.Sahoo/