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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 470 of 1990.

Date of decision: March 20, 1991.

B.S.Rao

...

Applicant.

Versus

Union of India and others ...

Respondents

For the applicant ... M/s. Akhil Mohapatra,
P.C. Rout, G.C. Patnaik,
H.N. Mall, Advocates.

For the respondents

1 to 3 ... Mr. R.Ch. Ratha,
Standing Counsel (Railways)

For the respondent No. 4 ... M/s. Dr. S.C. Dash,
B.K. Patnaik,
R.Ch. Mohanty, Advocates.

C O R A M :

THE HONOURABLE MR. B.R. PATEL, VICE-CHAIRMAN

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 has asked for a direction to the respondents to recall/withdraw the order of his transfer as in Annexure-4, to direct the respondents to implement the order of transfer of Respondent No. 4 to Paradeep and for other ancillary reliefs.

N. SENGUPTA

2. Most of the facts are undisputed. The order of

promotion and posting of the applicant as Carriage Foreman (Special) at Khurda Road in the scale of pay of Rs.2375-
3500/- ^{WPS} on 7.9.1990 vide Annexure-2 and on 22.10.1990 the order of posting of the applicant at Khurda and the transfer of Respondent No.4 to Paradeep were cancelled and Respondent No.4 was allowed to continue as Carriage Foreman (Special) at Khurda against the existing vacancy. The applicant's grievance is that he has got school going children who are studying in Telgu medium school and at Paradeep no such school will be available and if he is transferred to Paradeep the education of his children will be affected. The case of the applicant further is that in order to accommodate Respondent No.4, the order dated 22.10.1990 vide Annexure-4 was passed.

3. The case of the Respondents is that Respondent No.4 is an Officebearer of a recognised Railway Union and the Office of the Union is at Khurda Road. According to the Railway Board's instructions, before an Office bearer is transferred, information should have been given to the concerned Railway Employees' union which was not done while transferring Respondent No.4 to Paradeep. They have further alleged that Respondent No.4 made an application to the concerned authorities stating all these lacunae in the transfer order in Annexure-2. After consideration of the application of Respondent No.4 and also the one filed by the Railway Union ~~to~~ ^{to} the order in Annexure-4 was passed on 22.10.1990 and this order was really in the interest of administration.

Rev. S. J. S.

4. We have heard Mr. Akhil Mohapatra, learned counsel for the applicant, and Mr. R. Ch. Rath, learned Standing Counsel (Railways) for the respondents. We have also gone through the annexures to the application as well as the application filed by the Railways for vacation of interim stay. On a reading Annexures 2 & 4 it would be found that the order passed in Annexure-2 was modified and cancelled ^{there} only after a month and a half. That does not appear to be ~~any~~ ^{any} apparent reason, except the fact that the Respondent No. 4 ^{is} alleged to be the union Office bearer, for a change of the order was sufficient, but this is a matter ~~on~~ which we need not state anything, for what we are going to state below. Admittedly, the applicant has school going children and there can be no doubt that the month of October, 1990 ^{falls} ~~falls~~ in the middle of ^{an} academic session. ^{asked} If a person is ~~allowed~~ ^{asked} to move in the midst of the academic session, the education of his children is bound to be adversely affected. For this reason we would quash the order of transfer of the applicant to Paradeep vide Annexure-4, however the Railway Administration is free to post the applicant to a place where the facilities are available for the education of his children.

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

D. Mukherjee
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Vice-Chairman

Central Administrative Tribunal, I
Cuttack Bench, Cuttack.
March 20, 1991/Sarangi.



Seal No 120391
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Member (Judicial)