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Date of decision : August 27, 1990.

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## Respondents.

M/s.C.V.Murty.

C. M. K. Murty,

S. Kr. Rath, Advocates.

Mr. Tahali Dalai,

Adtl. Standing Counsel (Central)

C O R A M:

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

A N D

THE HONOURABLE 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 ? <sup>150</sup>

3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

## J U D G M E N T

B.R.PATEL, VICE-CHAIRMAN, The applicant in this case is a Khalasi working under the Subarnarekha Sub-Division, Central Water Commission, at Balasore. He has been transferred to Muri in Bihar ( Site No.132). The applicant has challenged this order of transfer on the ground that he is borne on workcharged establishment and like the regular Group D employee of the Department should not be transferred to a far off place.

*Respect*

2. The respondents have maintained in their counter that a new station for Flood forecasting has been opened at Muri in the State of Bihar and the new station cannot be managed by a new staff. In the interest of administration therefore, they have transferred an experienced hand like the applicant to manage the work initially.

3. We have heard Mr.C.M.K.Murty, learned counsel for the applicant and Mr.Tahali Dalai, learned Additional Standing Counsel (Central) for the respondents. Mr. Murty has vehemently urged that Group D employees are not transferred to far off places as a matter of policy. Similar treatment should be meted out to staff borne on workcharged establishment. In this connection he has drawn our attention to the statement made by the respondents in paragraph 4 of their counter particularly to the following portion;

" However, normally Group 'C' and 'D' personnel are not transferred from one station to another except to meet the exigencies of service or administrative requirements. "

According to Mr. Murty, there is no exigencies or administrative requirements to override the general policy that low-paid employees like Group 'D' personnel should not be transferred to other stations. Mr. Tahali Dalai on the other hand vehemently pressed that the need for experienced hand in the new station is good enough justification for transferring the applicant and the action taken by the Department should not be interfered

*B. K. M.*

with. After having heard ~~learned~~ counsel for both sides and going through the documents we are of the view that unless there is any justification of exceptional nature to deviate from the general policy, the policy of not transferring the Group D employees to <sup>a distant place</sup> should be adhered to and we are not satisfied that <sup>MR</sup> there is any such ground to transfer the applicant. Mr. Dalai's contention that the applicant will go there to manage the work which is of technical nature is not convincing in the absence of other details about the technical nature of work he is required to do. To our query Mr. Dalai said that the applicant will do the gauge reading which is necessary in a work of Flood-forecasting. We have however found from the Office order dated 1.6.1989 vide Annexure-1 that Gauge Readers are posted to various stations and Gauge Readers are borne on regular establishment as against the persons like the applicant who are borne on ~~work~~ charged establishment. Khalasi's job is clearly distinguishable from the work of gauge reader. If however the services of another experienced Khalasi is necessary, the Department may make some arrangement like <sup>posting</sup> ~~taking~~ competent persons <sup>for sometime</sup> to train up <sup>the staff locally recruited.</sup> It is a matter for the Department to decide. We are firmly of the view that the justification given by the respondents in paragraph 5 of their counter as has been interpreted by their counsel is not acceptable to us. We therefore, quash the Office order No. BSD/CB-21/89/4371-88 dated 1st June, 1989 (vide Annexure-1), transferring the

*Resub*

applicant from Subarnarekha Sub-Division, Balasore,  
to Site No.132, Muri. The application succeeds.

No costs.

*[Signature]*  
..... 27.8.90  
Member (Judicial)



*[Signature]* 27.8.90  
.....  
Vice-Chairman

Central Administrative Tribunal,  
Cuttack Bench, Cuttack.  
August 27, 1990/Saranghi.