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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 125 of 1991.

Date of decision : July 31, 1992.

R. Nagabhusan Rao

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Applicant.

Versus

Union of India and others ...

Respondents.

For the applicant ...

M/s. P. K. Patnaik,
G. B. Dash,
D. K. Das, Advocates.

For the respondents ...

Mr. R. C. Rath,
Standing Counsel (Railways)

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C O R A M:

THE HONOURABLE MR. K. P. ACHARYA, VICE-CHAIRMAN

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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 His Lordship wishes to see the fair copy of the judgment ? Mes.

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JUDGMENT

K.P. ACHARYA, V.C.

In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays to declare the applicant as Junior Clerk since 1.1.1987 with all consequential benefits and the illegal and malafide order of transfer contained in Annexure-6 dated 18.2.1991 transferring the applicant from Balasore to Kharagpur be quashed.

2. Shortly stated, the case of the applicant is that he was selected by the Railway Recruitment Board and joined as a Khalasi on 30.4.1970 and he was promoted as Material Checker on 4.10.1982 and ultimately he was promoted to the post of Junior Clerk after having turned out successful in the Departmental selection. The grievance of the applicant is that he has not been regularised since 1.1.1987. The second grievance of the applicant is that he has been transferred from Balasore to Kharagpur which would cause hardship to him. Hence, this application has been filed with the aforesaid prayer.

3. In their counter, the respondents maintained that the transfer is due to administrative exigencies and in public interest. It is further maintained that the applicant has been regularised.

4. There was no appearance from the side of the applicant. I have heard Mr. R.C. Rath, learned Standing Counsel (Railways) for the respondents on the merits of the case and I have carefully gone through the pleadings of the parties and the relevant documents. This case suffers from incurable infirmity of claim of plurality of

cause of action namely, regularisation of service as Junior Clerk since 1.1.1987 and to quash the order of transfer. On that count the case is liable to be dismissed.

5. As regards the regularisation of service with effect from 1.1.1987, it is also barred by limitation because this case has been filed on 5.4.1992. Therefore, the question of giving direction to the respondents for regularisation does not arise. All and above this, it is stated by the respondents that the applicant has been regularised.

6. As regards the transfer of the applicant from Balasore to Kharagpur, there is no allegation of malafide or violation of statutory mandatory rules. In the absence of any such allegation, interference by a Court is not warranted. So far as the hardship to be undergone by the applicant for such transfer is concerned, the Courts cannot interfere as has been laid down in the case of Mrs. Shilpi Bose and others vrs. State of Bihar and others, reported in AIR 1991 SC 532. The affected party may approach his higher authority. In view of the aforesaid facts and circumstances, I find no merit in this application which stands dismissed leaving the parties to bear their own costs.

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31.7.92
VICE-CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack
July 31, 1992/Sarangi * 