

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BEHCN: CUTTACK.**

Original Application No.184 of 1991.

Date of decision : August 14, 1991.

B.S.Rao ... Applicant.

Versus

Union of India and others ... Respondents.

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

For the respondents ... Mr. R. C. Rath,
Standing Counsel (Railways)

C O R A M :

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

200

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 ? Yes.

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.184 of 1991.

Date of decision : August 14, 1991.

B.S.Rao ... **Applicant.**

Versus

Union of India and others ... Respondents.

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

For the respondents ... Mr.R.C.Rath,
Standing Counsel (Railways)

• 100 •

C O R A M :

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

T H E S M A N T

K.P.ACHARYA, VICE-CHAIRMAN, In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant prays to quash the order passed by the competent authority transferring the applicant from Khurda Road to Paradeep Railway Station.

2. Shortly stated, the case of the applicant is that the applicant while working as Senior Carriage and Wagon Inspector stationed at Khurda Road (Jatni), an order was passed by the competent authority transferring the applicant from Jatni to Paradeep which is under challenge and sought to be quashed.

3. In their preliminary counter, the respondents maintained that the case being completely devoid of merit

is liable to be dismissed and the stay order should stand vacated.

4. I have heard Mr. Akhil Mohapatra, learned counsel for the applicant and Mr. R. C. Rath, learned Standing Counsel (Railways) for the respondents at a considerable length. The latest pronouncement of the Hon'ble Supreme Court in regard to matters involving transfer of a particular officer from one station to the other, is reported in AIR 1991 SC 532 (Mrs. Shilpi Bose and others v. State of Bihar and others). In the said case Their Lordships have been pleased to observe as follows:

"The Courts should not interfere with transfer orders which are made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of mala fide. A Government servant holding a transferable post has no vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or orders, the Courts ordinarily should not interfere with the order instead affected party should approach the higher authorities in the Department."

In view of the dictum laid down by Their Lordships, the Court must be very slow in extending its hands for interference unless there is a case of mala fide or violation of Rules put forward by the applicant. In the present case, there is no such allegation or assertion of violation of any Rules. The only point urged by learned counsel for the applicant is that though this Bench had observed while disposing of O.A. 470 of 1990 on 20.3.1991 that the Railway Administration is free to post the applicant to a place where the facilities are available

(S)

for the education of the children yet its order has been violated and even though the transfer of the applicant on a prior occasion to Paradeep was under challenge in O.A. 470 of 1990 for quashing the order of transfer to Paradeep, the respondents ^{have} ~~had~~ again posted the applicant to Paradeep which should be quashed. This Bench quashed the transfer order to Paradeep which was under challenge in O.A. 470 of 1990 because the transfer was during the mid academic session which would have affected the studies of the children of the applicant and therefore, this Bench observed while quashing the transfer order that the Railway Administration would be free to post the applicant to a place where the facilities are available for the education of his children. I am told that at Paradeep there is a Central School and there cannot be any dispute that the guardians are eager to admit their children to Central School because of educational facilities. In such circumstances, I find no illegality to have been committed by the Railway Administration. To add to this it may be stated that Mr. R.C. Rath, learned Standing Counsel (Railways) submitted that in the meanwhile the applicant has joined at Paradeep which was not disputed before me by the counsel for the applicant - rather admitted. In view of the aforesaid facts and circumstances and in view of the law laid down by Their Lordships in the case of Mrs. Shilpi Bose, I do not find any merit in this application which stands dismissed leaving the parties to bear their own costs.

.....
14/8/91
Vice-Chairman