

Cont. Mira Das  
P.O. Maheswar Mohanty

'A'

CAT / J / II

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CUTTACK BENCH, CUTTACK

O.A./T.A./R.A.No. 402 ..... 1991

Pritanbar Swain ..... Applicant(s)

Versus

Union of India & others ..... Respondent(s)

Sr. No.	Date	Order with Signature
1	4.11.91.	<p>In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays to quash the order of passed by the competent authority transferring the applicant from Bhubaneswar to Cuttack. The applicant is a Group 'D' employee serving in Kausalyaganga. Vide Annexure-3 dated 26.10.1991 he has been transferred to Cuttack.</p> <p>2. The law relating to transfer of employees from one place to the other has been recently laid down by Their Lordships of the Supreme Court in the case Mrs. Shilpi Bose and others versus State of Bihar and others reported in AIR 1991 SC 532. In view of the dictum laid down by Their Lordships in the case of Mrs. Shilpi Bose, I do not deem it just and expedient in the interest of justice to admit this case even though it was submitted by learned counsel for the applicant, Mrs. Das that there has been violation of administrative instructions issued by the competent authority restraining the concerned authority in transferring Group 'D' employees except on the question of administrative exigencies and public interest. However the Supreme Court has also observed that if there is violation of any administrative instructions then the affected party should approach the higher authorities. I have no</p>

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objection if the authorities is approached and the authorities take a lenient view over the applicant.

3. It was also submitted by Mrs. Das, learned counsel for the applicant that the applicant has school going children and ailing parents at Hubaneswar and it would be <sup>a</sup>considerable hardship for the applicant to be transferred during the mid-academic session. These are all matters to be considered by the concerned authority and I have no objection if the concerned authority defers the transfer till the end of the academic session.

4. Subject to the aforesaid observations, the case is not found fit for admission and hence it is dismissed. But I would ~~make~~ again make it clear that by virtue of ~~the~~ dismissal of this original application the concerned authority is not debarred from exercising his discretion in favour of the applicant, if he so desires. *Send a copy of this order to the*

*opposite party.*

*kn*  
Vice-Chairman