

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACKBENCH: CUTTACK.

Original Application No. 413 of 1991

Date of decision: February 25, 1992.

Golak Chandra Nayak

...

Applicant.

Versus

Union of India and others ...

Respondents.

For the applicant ... M/s. P.R.Dash,
T.Rath,
Miss.S.Mohanty, Advocates.

For the respondents ... Mr.S.Biswal,
Addl. Standing Counsel (Central)

C O R A M:

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

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.

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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 quash the order passed by the competent authority transferring him from Doordarshan Kendra, Cuttack to All India Radio, Jeypore.

2. Shortly stated, the case of the applicant is that he is at present working as Clerk Grade I in Doordarshan Kendra, posted at Cuttack. Vide order dated 30.10.1991 contained in Annexure-1, the Deputy Director (E.R.), A.I.R., Calcutta has transferred the applicant from Cuttack to Jeypore. Being aggrieved by this order this application has been filed with the aforesaid prayer.

3. In their counter, the respondents maintained that the order of transfer has been passed in public interest and also in the interest of administration. Hence the transfer order should not be unsettled - rather it should be sustained.

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4. I have heard Mr.P.R.Dash, learned counsel for the applicant and Mr.S.Biswal, learned Addl. Standing Counsel (Central) for the respondents on the merits of the case. Mr.Biswal, learned Addl. Standing Counsel (Central) submitted that the applicant has stayed at Cuttack for about 19 years and therefore, in the interest of administration and in public interest he has been transferred to Jeypore. It was further submitted that keeping in view the observations of Their Lordships in the case of Mrs. Shilpi Bose and others reported in AIR 1991 SC 532 v. State of Bihar and others/and Union of India v. H.N.Kirtania reported in 1989 SCC (L & S) 481, since there is no violation of statutory mandatory rules, the order of transfer should be sustained. On the other hand, Mr.P.R.Dash, learned counsel for the applicant submitted before me that considerable hardship would be caused to the applicant unless the transfer order is quashed. He has very small school going children and their studies will be seriously hampered as adequate facilities may not be available at Jeypore to continue the studies of his children. Be that as it may, the applicant has joined a transferrable service with eyes open and that apart as laid down by Their Lordships of the Supreme Court in the case of Mrs.Shilpi Bose (supra) these are matters to be considered by the higher authorities. However, this case is being taken up in the month of February and final annual examination of the children of the applicant is knocking at the door. True it is that the applicant has obtained a stay order and has continued till now. But that does not necessarily mean that the children of the applicant should be punished and their educational facilities should be hampered. Therefore, from humanitarian point of view I feel it just and

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expedient to give some time to the applicant to stay at Cuttack at least till the final annual examinations of his children are over which is expected to be over by the middle of May, 1992. Therefore, the impugned order of transfer stands in abeyance till the 29th May, 1992 and the applicant shall handover charge of his present post in the afternoon of 30th May, 1992 and proceed to Jeypore to join his new place of posting.

5. Thus, this application is accordingly disposed of leaving the parties to bear their own costs.

L. G. Sarangi
25-2-92
VICE-CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack,
February 25, 1992/Sarangi.

