

19/5. Biswa Mohan Patnaik
R.N. Misra
B. Pujari

1
'A'

CAT/J/II

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CUTTACK BENCH, CUTTACK

O.A./T.A./P.A.No... 185 ... 1992

Paramananda Nanda ... Applicant(s)

Versus

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

Sr. No.	Date	Order with Signature
1	1.5.92.	<p>We have heard Mr. Biswa Mohan Patnaik, learned counsel for the applicant and Mr. Aswini Kumar Misra, learned Senior Standing Counsel (CAT) on the merits of the application. The applicant is Sub-Post Master at Tikarpara within the town of Bolangir and has been transferred to Lalsingha which is about 40 K.Ms. from Bolangir. Hence, the order of transfer is sought to be quashed.</p> <p>2. Mr. Biswa Mohan Patnaik submitted that there is gross malafide on the part of the Superintendent of Post Offices by putting the applicant into various difficulties and as a second string to his ^{bow} Board the Superintendent of Post Offices has xxx passed the transfer order violating the instructions of the Director General, Posts ^{namely} within four years from the date of posting of the particular incumbent, namely he/she should not be transferred from that post, and therefore, the transfer order should be quashed on both the counts.</p> <p>3. On the other hand, Mr. Aswini Kumar Misra, learned Senior Standing Counsel (CAT) submitted that the previous orders passed by the Superintendent of Post Offices in regard to the service benefits of the applicant might have gone against the applicant but the Superintendent of post Offices was entitled to ^{his} the view</p>

Serial
No. of
OrderDate of
Order

Order with Signature

Order No. 1 dt- and was also entitled to make his own interpretation of the
1.5.1992 contd

relevant rules. Such interpretation might not be accepted by the Bench. According to Mr. Misra, this would be no ground to impugn malafide to the Superintendent of Post Offices. We propose ^{not} to express any opinion on this subject because all the relevant facts are not before us.

4. The next contention put forth by Mr. Patnaik is that the applicant is a chronic sufferer in regard to his spinal cord and he had undergone operation. Therefore, his transfer to Loisingha would be detrimental to his health. From the certificate contained in Annexure-3 it is clear that the applicant had undergone operation on 10.9.1982 namely 10 years ago and Dr. B.C. Tripathy advised as per his certificate dated 19.2.1992 that the applicant should avoid long and strenuous journey. It was submitted by Mr. Patnaik that the applicant would be required to come to Cuttack for intermittent medical check up. If the applicant could come from Bolangir to Cuttack we find no reason as to how a journey by 40 K.Ms. more would ^{kill upon} threaten his health. We also fail to understand as to how Dr. B.C. Tripathy could give a certificate when he was not the operating surgeon. Therefore, we find ~~that~~ no merit in the aforesaid contention of Mr. Patnaik.

5. As a last straw on the camel's back, Mr. Patnaik contended that the administrative instructions regarding the period of posting have been violated. In the case of Mrs. Shilpi Bose and others vrs. State of Bihar and others reported in AIR 1991 SC 532 it has been held that in case there is violation of any administrative instructions, the affected parties should move the higher authorities instead of interference by the Court.

3

O.A. 185 of 1992.

'A'

3

Serial
No. of
OrderDate of
Order

Order with Signature

Order No. 1 dt.
1.5.92 contd.

In such circumstances, we find no merit in this original application and we do not feel inclined to admit it.


Leave is given to the applicant to approach the Chief Post Master General and convince him if there is any


violation of administrative instructions. If the Chief

Post Master General is satisfied he will pass necessary

orders according to law without being influenced. ^{by our} ~~by the~~ _{observations.}

6. Thus, this application has not been admitted and hence stands dismissed.


Vice-Chairman


Member (Admin.)