

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH : CUTTACK.**

Original Application No. 223 of 1992.

Date of decisions: September 24, 1992.

Lokanath Misra ...

Applicant.

## versus

Collector, Central Excise and another... Respondents.

For the applicant ...

M/s.A.Patnaik ,  
L.Pangari,N.C. Patnaik,  
S.Udgata,T.K.Misra,  
P.C.Patnaik, Advocates.

For the respondents ...

Mr. P. N. Mohapatra,  
Addl. Standing Counsel (Central)  
Mr. Ashok Kumar Misra,  
Sr. Standing Counsel (Central)

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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 ?
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 dated 8.5.1992 transferring him from Baripada to Rayagada.

2. Shortly stated, the case of the applicant is that he joined the Central Government Service in the Central Excise & Customs Department as Inspector on 15.12.1977 and for some time he was <sup>sent</sup> on deputation to the Central Bureau of Investigation and ultimately after serving for some time in the Central Bureau of Investigation the applicant was repatriated to his parent Department and was posted at Baripada. Since he has been transferred to Rayagada this application has been filed with the aforesaid prayer.

3. In their counter, the respondents maintained that after repatriation the applicant was posted at Baripada on 11.10.1991. It is further maintained that for administrative exigencies transfer has been ordered which should not be unsettled - rather it should be upheld. It is finally maintained that the case being devoid of merit is liable to be dismissed.

4. I have heard Mr.L.Pangari, learned counsel for the applicant and Mr.P.N.Mohapatra, learned Addl. Standing Counsel (Central) and also Mr.Ashok Kumar Misra, learned Senior Standing Counsel (Central) for the Central Government.

5. In the case of Mrs.Shilpi Bose and others vrs. State of Bihar and others reported in AIR 1991 SC 532, Their Lordships have been pleased to hold that a Tribunal can interfere with an order of transfer only when there

is violation of statutory mandatory rules or the transfer has been effected on the basis of malafide or bias. In the averments finding place in the application the applicant has not pleaded either violation of statutory mandatory rules or malafide or bias. The counsel for the applicant confined his arguments <sup>to</sup> on two aspects only and they are as follows:

- (i) Before completion of one year of service at Baripada the applicant has been transferred though the tenure is for four years ; and
- (ii) Transfer of the applicant at this juncture would tell upon the studies of his children as there is no Central School at Rayagada and it would be difficult to get admission at this point of time.

6. I have given my anxious consideration to the arguments advanced at the Bar . No doubt the tenure of service may be for four years but it is always subject to exigencies of service and administrative reasons. Nothing was placed before me to indicate that in no circumstance a particular employee can be transferred from one place to the other without completing his service for four years. In my opinion, as far as possible this guideline may be maintained . Apart from the above, in the case of Mrs. Shilpi Bose (supra) Their Lordships have laid down that in case there is violation of administrative instructions the affected party should move his higher authorities <sup>in re</sup> ~~in re~~ rather <sup>than</sup> ~~than~~ interference by any Court.

7. As regards the inconvenience of children's education, it is for the administrative authority to take

into account and courts cannot interfere.

8. Thus, I find no merit in this application which stands dismissed leaving the parties to bear their own costs.



*K. G. D. M.*  
24.12.92  
.....  
VICE-CHAIRMAN

Central Administrative Tribunal,  
Cuttack Bench, Cuttack.  
September 24, 1992/Sarangi.