

Central Administrative Tribunal
Cuttack Bench: Cuttack

Original Application No: 261 of 1992

Date of decision: 17.8.1992.

Keshab Ch. Sethy .. Applicant

Versus

Union of India and others .. Respondents

For the Applicant : Mr. S.P. Mohanty, Advocate

For the Respondents: Mr. P.N. Mohapatra, St. Counsel

CORAM:

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

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1. Whether reporters of local paper may be allowed to see the judgment? Yes.
2. To be referred to the reporters or not? No
3. Whether His Lordship wish to see the fair copy of the judgment? Yes.

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J U D G M E N T

K.P.ACHARYA, V.C.

In this application under section 19 of the Administrative Tribunals Act, 1985, the Petitioner prays to quash the order contained in Annexure 1 transferring the Petitioner from Keonjhar to Dhenkanal and so also to quash the order contained in Annexure 2 relieving the petitioner from the present post held at Keonjhar.

2. Shortly stated the case of the petitioner is that while he was working as Section Supervisor in the Office of the S.D.O. Telegraphs, Keonjhar, vide Annexure 1 dated 28th, May, 1992 the Petitioner has been transferred from Keonjhar to Dhenkanal which is under challenge and sought to be quashed.

3. In their counter, the Opposite Parties maintained that the order of transfer is in public interest and for exigency of service and therefore should not be quashed - rather it should be sustained.

4. I have heard Mr. S.P. Mohanty learned counsel appearing for the Petitioner and Mr. P.N. Mohapatra learned Additional Standing Counsel for the Opposite Parties.

5. In regard to the cases of transfer, the law has been well settled - latest pronouncement of the Honourable Supreme Court is reported in AIR 1991 SC 532 (Mrs. Shilpi Bose and others Vs. State of Bihar and others). Their Lordships of Hon'ble Supreme Court in the case of Mrs. Shilpi Bose and others (supra) have been pleased to observe that a court can interfere with the order of transfer only when there is violation of any statutory, mandatory rules or resulting from mala fide or bias on the part of the concerned authority. Mr. Mohanty learned Counsel appearing for the petitioner submitted that the petitioner had made certain grave allegations against the

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SDO Telegraphs stationed at Keonjhar impeaching his honesty and integrity and that he had cleanly violated the rules thereby committing gross financial illegalities. In order to substantiate his contention, the petitioner has filed certain paper cuttings appearing in the newspaper making out a case of corrupt practice against the S.D.O Phones. This allegation of malafide against the SDO Telephones has no important roll to play in the matter because the transferring authority is the Telecom District Engineer, Dhenkanal who has passed the order contained in Annexure 1. There is no allegation of mala fide against the Telecom District Engineer, Dhenkanal except that it has been stated in a vague manner that the Telecom District Engineer had played into the hands of S.D.O Telegraphs Keonjhar. On this mere bold assertion, I cannot draw an adverse inference against the Telecom District Engineer and therefore, I find that there is no allegation of mala fide against the authority who had passed the order contained in annexure 1. There is no allegation of violation any mandatory statutory rules. Therefore, I do not find any merit in this application which stands dismissed.

6. Before I part with this case, I must observe that there has been a grave allegation against the SDO Telegraphs Keonjhar for committing financial irregularities /illegalities touching his integrity. It was told to me by Mr. P.N. Mohapatra learned Standing Counsel that ^{an} enquiry had been conducted by some officer of Dhenkanal or Keonjhar above the rank of SDO. Following the principles, that justice shall not only be done but there should be a manifestation of justice being done, I would direct that in order to have a clean administration and in order to avoid any criticism in regard to corruption

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the Chief General Manager, Telecommunication should cause an enquiry by one of its responsible officer of the Headquarters ^{above the rank of T. D. N.} in order to find out whether there is a prima facie truth in regard to the allegations levelled against the SDO Telegraphs ^{K. Mohanty} Dhenkanal by the Petitioner and the enquiry should be conducted in presence of both the SDO and the present petitioner. In case during the preliminary enquiry it is revealed that a prima facie case has been made out against the SDO Telegraphs I am sure the Chief General Manager, Telecommunication will definitely institute a full-fledged enquiry and in case the petitioner fails to substantiate his allegation, The Chief General Manager, Telecommunication will be well advised to proceed against the Petitioner according to law for having made frivolous allegation against the superior authority. Subject to the aforesaid observations made in the preceding paragraph, the case stands dismissed. No costs.



Central Administrative Tribunal,
Cuttack Bench, Cuttack/K. Mohanty.

[Signature]
17.8.92
VICE CHAIRMAN