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Central Administrative Tribunal,  
Cuttack Bench; Cuttack

Original Application No.283 of 1992

and

Misc. Application Nos.284 of 1992 and 283 of 1992

Date of decision: July 20, 1992

PITAMBAR SETHI

.... Applicant

Versus

Union of India and others

For the Applicant

: M/s A.K.Misra,  
S.K.Das,  
S.B.Jena,  
Advocates

For the Respondent No.2

: Mr. K.C.Mohanty Govt. Advocate  
(For the State of orissa)

For the Respondent No.3

: M/s. Deepak Misra, Devanand Misra,  
A. Deo, B.S. Tripathy, P. Panda,  
and D.K. Sahoo, Advocates.

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CORAM:

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

AND

THE HONOURABLE MR. M.Y. PRIOLKAR, MEMBER (ADMINISTRATIVE)

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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? No
3. Whether Their Lordships wish to see the fair copy of the judgment? Yes.

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO: 283 of 1992

&

MISC. APPLICATION NOS; 284/92 and 283 of 1992

Date of decision: July 20, 1992

PITAMBAR SETHI

.... APPLICANT

VERSUS

UNION OF INDIA AND OTHERS

.... RESPONDENTS

For the Applicant : M/s A.K.Misra,  
S.K.Das,  
S.B.Jena,  
Advocates

For the Respondent Nos.2 : Mr. K.C.Mohanty, Government Advocate  
(For the State of Orissa)

For the Respondent No.3 : M/s Devanand Misra, Deepak Misra,  
Anil Deo, B.S.Tripathy, P.Panda,  
and D.K.Sahoo, Advocates.

C O R A M;

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

THE HONOURABLE MR. M.Y.PRIOLKAR, MEMBER (ADMINISTRATIVE)

J U D G M E N T

K.P.ACHARYA, V.C.

In Original Application No.283 of 1992, prayer of the Petitioner Shri Pitambar Sethi is to quash the order passed by the Government of Orissa contained in Annexure-1 dated 29th May, 1992, placing the services of the Petitioner at the disposal of the Orissa Forest Development Corporation Limited.

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2. Shortly stated the case of the Petitioner is that he is a Member of the Indian Forest Service now posted as Deputy Conservator of Forest (Kendu Leaf), Deogarh within the District of Sambalpur. The Petitioner vide Annexure-1 has been transferred from Deogarh. Hence this application has been filed with the aforesaid prayer.

3. Since it was contended on behalf of the Petitioner that the Petitioner being a Member of the Indian Forest Service all matters involving members of the Indian Forest Service have to be placed before the Chief Minister according to the dictum laid down by this Bench in Original Application No. 78 of 1991 disposed of on 24th December, 1991 (B.K. Shukla Vs. State of Orissa and others), the case of transfer of the petitioner not having been placed before the Chief Minister for his approval, the impugned order of transfer is illegal and inoperative. In view of such a submission, <sup>was made</sup> while the case was admitted for hearing on 29th June, 1992 by the learned Single Judge <sup>and</sup> an interim order was passed, <sup>and</sup> Opposite Party No. 2 namely Secretary to the Government of Orissa, Forest Department was called upon to cause production of the relevant file. This case could have been legitimately, under the rules, disposed of by a Single Judge but in view of the urgency of the matter, as an interim order had been passed, this case came up for hearing before the Division Bench.

4. M.A. 283 of 1992 is an application filed by Shri K.C. Hansada, Opposite Party No. 3 in the main application praying to vacate the stay order. Misc. Application No. 284 of 1992 is the show cause filed on behalf of the Government of Orissa praying to vacate the stay order. This common order will

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govern the original application and the Misc. Applications.

5. We have heard Mr. Aswini Kumar Misra learned Counsel for the Petitioner, Mr. K.C. Mohanty learned Government Advocate for the State of Orissa (Opposite Party No.2) and Mr. Deepak Misra learned Counsel appearing for the Opposite Party No.3. We proposed to dispose of the contention raised by Mr. Aswini Kumar Misra learned Counsel appearing for the Petitioner. The case of the Petitioner not having been placed before the Chief Minister, the order of transfer is inoperative. In Original Application No.78 of 1991 disposed of on 24.12.1991, the Division Bench had specifically held that according to the Rules of Business all or any matters involving an officer of the cadre of I.A.S., I.P.S and I.F.S. must be placed before the Chief Minister for his orders without which the order affecting a particular party or officer is a nullity and hence inoperative under the law. We had an occasion to go through the relevant file. It appears at page 35 and 36/n of the file that the Minister of Forest had proposed to transfer certain officers. The view of the Minister was placed before the Chief Minister who observed as follows:

"The minister should ask for Bio-data of these officers and then decide their eligibility and posting keeping six years rule strictly in view"

By the word 'these officers', the chief Minister definitely meant those officers whose names were mentioned against Sl. Nos 1 to 18 at page 35 and 36/n. The name of the Petitioner Shri Pitambar Sethi does not find place against any of these Sl. numbers. After the file came back to the Minister vide order dated 29th May, 1992 contained in pages 37, 38 & 39/n of the notesheet he ordered transfer and posting of several officers out of whom the services of the <sup>present</sup> petitioner Shri Pitambar Sethi was ordered to be placed at the disposal of the Orissa Forest

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Development Corporation Ltd. This order passed by the Minister has not been placed before the Chief Minister either for his approval or ratification. Therefore, we are of opinion that there is a gross violation of the provisions contained in Rules of Business and principles laid down by this Bench. ~~Bench~~ in OA 78 of 1991 disposed of on 24th December, 1991 <sup>had not been</sup> followed. we find there is considerable force in the contention of Mr. Misra learned Counsel for the Petitioner that the impugned order of transfer is illegal and inoperative. Hence the transfer order is hereby quashed. It was urged by Mr. Mohanty learned Government Advocate for the State of Orissa that in case the Bench holds that the impugned order of transfer is a nullity or inoperative under the law then leave should be granted to the State Government to pass orders according to law. No leave is necessary to be granted by this Bench because the Government have absolute right and prerogative to pass orders at any point of time according to law in respect of any officers serving under the Government.

6. Thus, the application stands allowed leaving the parties to bear their own costs. In view of the fact that the transfer order has been quashed and the application has been allowed no further orders are warranted to be passed in the Misc. Application Nos. 283 of 1992 and 284 of 1992. Hence they are disposed of accordingly.

  
MEMBER (ADMINISTRATIVE)

Central Administrative Tribunal,  
Cuttack Bench/20.7.92/K Mohanty



  
20.7.92.  
VICE CHAIRMAN