

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 290 of 1992.

Date of decision : September 14, 1992.

Dr. Raghunath Pradhan ... Applicant.

versus

Union of India and others ... Respondents

For the applicant ... M/s.Devanand Misra,
Deepak Misra,
A.Deo, B.S.Tripathy
Advocates.

For the respondents ... Mr. Aswini Kumar Misra,
Senior Standing Counsel (Central)

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 passed by the competent authority transferring him from Berhampur to Karma in the State of Bihar.

2. Shortly stated, the case of the applicant is that he has been serving in the Department of Health and Family Welfare, since March, 1977 and he has served for 6½ years in three different States namely Assam, Nagaland and in Bihar. Despite the fact that the applicant had served in the State of Bihar, he has now been transferred to the same State. Hence, this application with the aforesaid prayer.

3. No counter has been filed in this case for the reasons best known to the respondents.

4. I have heard Mr. Deepak Misra, learned counsel for the applicant and Mr. Aswini Kumar Misra, learned Senior Standing Counsel (Central) for the respondents on the merits of the case.

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 an order of transfer could be quashed only when it has resulted from an act of malafide or violation of statutory mandatory rules. In the present case, there is no allegation of malafide or violation of statutory mandatory rules. On the basis of the pleadings it was submitted by Mr. Deepak Misra, that old ailing mother who has since become immobile cannot be taken by the applicant to Bihar and leaving her alone at Berhampur would be most unkind on the part of the applicant

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which may also become fatal for the mother and it was further submitted that the wife of the applicant is also serving at Berhampur and it would be utterly difficult on the part of the applicant to move out with his family to Karma, in the State of Bihar and necessarily this would uproot the family. Therefore, the transfer order should be quashed. No doubt, these are the practical difficulties in the part of the applicants, if at all, these facts are true. But the Courts have been ~~restricted~~ ^{unhindered} from interfering with the matters of this nature because Their Lordships in the case of Mrs. Shipli Bose and others (Supra) have held that the affected parties should move their higher authorities if there is any violation of administrative instructions envisaging the practical difficulties of a particular employee to be taken into consideration. Mr. Deepak Misra, submitted that the applicant wants to move the higher authority. I have no objection. Keeping in view the principles laid down in the case of Mrs. Shipli Bose and others (supra) I cannot interfere ^{with} in the impugned order of transfer. Hence, this application stands dismissed leaving the parties to bear their own costs.



Central Administrative Tribunal,
Cuttack Bench, Cuttack.
September 14, 1992/Sarangi.

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VICE-CHAIRMAN