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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH.CUTTACK.

Original Application No. 306 of 1992.

Date of decision : September 24, 1992.

Prabhakar Singh ...

Applicant.

Versus

Union of India and others ...

Respondents

For the applicant ... M/s. A.K. Bose,
P.K. Giri, Advocates.

For the respondents ... Mr. P.N. Mohapatra,
Addl. 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 ? No.
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 contained in Annexure-3 transferring the applicant Prabhakar Singh from Angul Telephone Exchange to Bantala under Junior Telecom. Officer, Telegraphs, Angul. Hence, this application has been filed with the aforesaid prayer.

2. In their counter, the respondents maintained that the order of transfer has been passed in exigencies of service and the transferring authority has taken an independent decision without being influenced by any demand made by any person from any quarters and in such circumstances, the application being devoid of merit is liable to be dismissed.

3. I have heard Mr. A. K. Bose, learned counsel for the applicant and Mr. P. N. Mohapatra, learned Addl. Standing Counsel (Central) for the respondents.

4. Mr. Bose, strongly relied upon the contents of Annexure-1 which is a letter addressed to the Telecom District Engineer, Dhenkanal by the applicant. Therein he has made allegations against some of the Telephone Operators that those Telephone Operators are misusing the telephone system while allowing some businessmen to communicate with persons outside the State for their business purposes without booking regular trunk calls and by paying some illegal gratification to those Operators. The applicant having made such allegations which had an effect on the business community and on their insistence

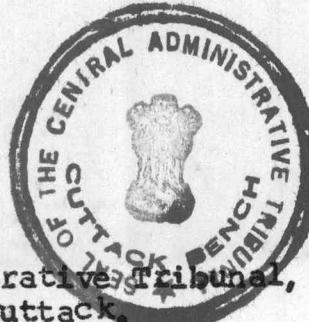
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the Branch Secretary of a particular Union, sent a telegram to Telecom District Engineer, Dhenkanal to shift the applicant within a week and this telegram is dated 5.6.1992 which resulted in transfer of the applicant contained in Annexure-3.

5. Ordinarily, order of transfer should not be interfered with unless there is malafide or violation of statutory rules. Allegation, if any, was levelled against the Telephone Operators. No malafide has been pleaded against the Telecom District Engineer, Dhenkanal and therefore, one has to be very reluctant in quashing the order of transfer in the absence of any malafide pleaded against the transferring authority. But one cannot shut his eyes to the chronological events occurring in the present case. The applicant addressed Annexure-1 to the Telecom District Engineer, Dhenkanal on 21.5.1992 making allegations against the Operators. A resolution was passed in a meeting held on 24.5.1992 to transfer the applicant from Angul as ^{his residence at Angul} it would be against the interest of the Operators and in pursuance thereto the Branch Secretary of a particular Union sent a telegram to the Telecom District Engineer requesting him to shift the applicant from Angul within a week. The impugned order of transfer was passed on 20.6.1992. In the circumstances stated above, it cannot be said that the impugned order of transfer is not owing to the administrative reasons or administrative exigencies but due to ^{it is} the pressure given by the Branch Secretary, ^{a fact which} cannot be held to be devoid of merit. However much it may be

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contended with emphasis on behalf of the Respondents that the order of transfer has been passed on an independent decision taken by the Telecom District Engineer, the abovementioned circumstances and communication are tale-telling and it cannot be held that the contention of Mr. Bose that the demand of the Branch Secretary to shift the applicant from Angul resulted in transfer of the applicant is wholly unfounded and untenable. Therefore, I am of ^{the} _{my} opinion that the order of transfer cannot be held to have been passed on public interest or in administrative exigencies. In such circumstances, the impugned order of transfer contained in Annexure-3 is hereby quashed and the application stands allowed leaving the parties to bear their own costs.



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

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VICE-CHAIRMAN