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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH; CUTTACK

Original Application No. 395 of 1992

Date of Decision: 23.09.1992

M. Dhanajayadu

Applicant

Versus

Union of India & Others

Respondents

For the applicant

M/s. A.S. Naidu
P.K. Mohanty
P.K. Mohapatra,
Advocates

For the respondents

M/s. S. Biswal &
Akhya Kr. Mishra,
Addl. Standing Counsel

For the Intervenor

Mr. A.K. Ghosh,

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C O R A M

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

1. Whether the reporters of papers may be allowed to see the judgment ? Yes
2. To be referred to reporters or not ? /ND
3. Whether His Lordship wishes to see the fair copy of the judgment ? Yes

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 applicant prays to quash the order passed by the competent authority transferring the applicant from Balasore to Patpur vide order dated 5.6.1992.

2. Shortly stated, the case of the applicant is that he is now working as Senior Radio Technician stationed at Balasore. The applicant has been transferred vide Annexure-1 dated 5.6.1992. Hence, this application has been filed with the aforesaid prayer.

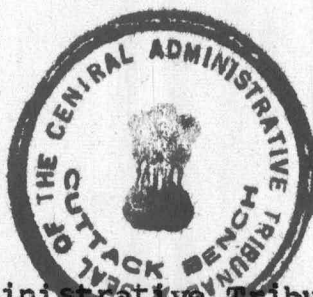
3. In their counter, the respondents 1, 2 and 3 maintained that on previous occasions the applicant had filed representations to cancel his transfer from Balasore and that was allowed on sympathetic grounds due to the illness of the wife of the applicant and in regard to the studies of his children. Again the same attempt has been made on the self-same grounds, even though the applicant has stayed at Balasore for more than 10 years.

4. According to the respondents, the applicant has been resisting the order of transfer on some pretext or the other. Hence, according to the respondents, the case being devoid of merit is liable to be dismissed.

5. Shri A.K. Ghosh, who has been ordered to be transferred ^{to Balasore} in the place of the applicant has entered appearance and his prayer for acting as intervenor has been allowed. Shri Ghosh has taken the same stand as that of other respondents and in addition to the above Shri Ghosh has maintained that he would be seriously prejudiced if his posting at Balasore is cancelled.

6. I have heard Mr. A. S. Naidu, learned counsel for the applicant, Mr. S. Biswal, learned Additional Standing Counsel (Central), Mr. Ashok Kumar Misra, learned Senior Standing Counsel (Central) appearing for Respondents 1 to 3. I have also heard Mr. Ghosh (Respondent No. 4) in person. In view of the law laid down by Their Lordships of the Supreme Court in the case of Smt. Shilpi Bose and others vrs. State of Bihar and others, reported in AIR 1991 SC 532 I do not find this to be a fit case for interference especially due to the fact that the applicant has been posted at Balasore for more than 10 years. Mr. Naidu, submitted with vehemence that at least till the end of the academic session the applicant be allowed to remain at Balasore. The transfer order was passed on 5.6.1992 i.e. at a time when the academic session for 1992 had not begun. The applicant obtained a stay order and continued at Balasore knowing fully well that the studies of his children may be affected, if he does not join his new place of posting soon thereafter. If he has taken the ^{decision for} ~~stand by~~ _{kn} invoking the jurisdiction of this Tribunal then it is at his own risk. Mr. Naidu further submitted that there is no Central School at Patpur and therefore, the studies of the children of the applicant would be affected. This is a matter for the consideration of the administrative authority. The courts have nothing to do with that. I have no objection if a representation is made to the administrative authority to consider these aspects. But I do not feel inclined to interfere with the

transfer order. Thus, this application being devoid of merit, stands dismissed leaving the parties to bear their own costs.



Central Administrative Tribunal,
Cuttack Bench, Cuttack.
September 23, 1992/Saranghi.

leg. a. Sarangi
23.9.92
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VICE-CHAIRMAN