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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No. 528 of 1992

Date of Decision: 30.7.93

Harendranath Das

Applicant(s)

VERSUS

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? No.
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not ? No.


MEMBER (ADMINISTRATIVE)

30-7-93.

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Respondents

For the applicant

M/s.D.S.Nanda
S.K.Nayak
Advocates

For the respondents

Mr.D.N.Mishra
Standing Counsel
(Rly.Administration)

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C O R A M:

THE HONOURABLE MR.H.RAJENDRA PRASAD, MEMBER (ADMN)

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JUDGMENT

MR. H. RAJENDRA PRASAD, MEMBER (ADMN) The petitioner, Shri Harendranath Das, Class-IV, T.P.M. (B), Operating Department, Laxmananath Road, under the South Eastern Railway, was transferred to Dhalbhumgarh Railway Station in May, 1992. It is to be mentioned here that no order of transfer was actually received by him on the date of his application to this Tribunal; on merely receiving information that such order was under issue, he approached the Tribunal. A Stay was granted on 23.10.1992 and the petitioner is continuing at Laxmananath Railway Station on the strength of the order so granted.

2. The petitioner seeks an absolute stay and quashing of the posting order on the following grounds:

1) That officials of his cadre are not ordinarily transferred out to distant places from their existing appointments.

2) He had been working at Laxmananath since only 17.10.1977.³⁾ He would be unable to comply with the order of transfer because of his own ill health, his wife's sickness and his son's education.

The petitioner, therefore, pleads that he will be put to undue hardship, ~~an avoidable~~ financial strain, and considerable personal inconvenience and dislocation, if he were to proceed to Dhalbhumgarh.

3. The learned Standing Counsel for the respondents submitted that;

(a) the petitioner actually avoided receiving orders posting him from Laxmananath to Dhalbhumgarh;

(b) that he ^epreempted any posting by his approach to

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T. Rajendra Prasad

to this Tribunal on mere apprehensions;

(c) that although, ordinarily, officials of the petitioner's cadre are not posted out of their existing appointments under normal circumstances, this particular posting has had to be issued in the interests of service and on valid administrative grounds;

(d) the reasons adduced by the petitioner against his posting are ~~common~~ enough reasons which cannot constitute valid or acceptable grounds for non-compliance with lawful orders issued by a competent authority; and

(e) that adequate educational and medical facilities exist in reasonable proximity to the station to which the petitioner stands posted.

He, therefore, emphatically contended that there is no merit in the request of the petitioner and the same should be disallowed.

4. I have given a close consideration to the facts of the case. Normally Courts are not expected or called upon to interfere in cases of routine transfer of Government servants in the public interests, if so found necessary and adjudicated by the concerned departmental authorities, unless malafides have been alleged (or convincingly established) on the part of the said authorities, or unless some of the statutory provisions or mandatory regulations have been grossly violated. Applying this twin-test, there is evidently no merit or strength in the petitioner's request, since no malafides have either been attributed or proved. Also, no rule or statutory regulation

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has been transgressed in the present case. The request of the petitioner is, therefore, disallowed.

5. Be that as it may, the petitioner is hereby permitted to represent his grievance once again to his higher authorities explaining his problems and difficulties. The concerned authorities would be well-advised to examine the representation afresh ~~in~~ a sympathetic manner and arrive at a suitable decision, keeping in view all the circumstances of the case; whereafter they are free to come to any suitable decision on the representation. The petitioner may represent to his superiors within 15 days of the receipt of this order. The authorities will arrive at a decision within 30 days of the receipt of such representation. The application is thus disposed of. No costs.


MEMBER (ADMINISTRATIVE)

Central Administrative Tribunal
Cuttack Bench, Cuttack
dated the 1993/ B.K.Sahoo

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