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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO: I of 1993.

Date of decision: February, 24, 1993.

Bishnu Charan Chaudhury ... Applicant.
V ersus
Union of India and Ors. ... Respondents.

For the Applicant ... M/s. R.B.Mohapatra,
D.Rath, Advocates.
For the Respondents ... Mr.Ashok Misra,
Sr.St.Counsel (Central).

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C O R A M:

THE HONOU RABLE 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 wish to see the fair copy of the judgment? Yes.

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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 Petitioner prays to quash the impugned order contained in Annexure-3 transferring the Petitioner Shri Bishnu Charan Chaudhury from I.N.S. Chilika to Ship-wright School, Visakhapatnam vide order dated December 30, 1992.

2. Shortly stated, the case of the petitioner is that he has been serving as a Civilian Educational Instructor (CEI) in I.N.S. Chilka, under Opposite Party No. 4 since 1st November, 1980. The Petitioner has since been transferred to Visakhapatnam (vide order contained in Annexure-3) sought to be quashed.

3. In their counter, the Opposite Parties maintained that the order of transfer is in public interest and in exigency of service and it is further maintained that the petitioner once having agreed to take ^{upon} ~~up~~ himself an All India transfer liability, it is no longer open to him to challenge the order of transfer. Hence there being no merit in this application is liable to be dismissed.

4. I have heard Mr. R.B. Mohapatra learned counsel appearing for the Petitioner and Mr. Ashok Misra, learned Senior Standing Counsel (Central) for the Opposite Parties. Law relating to transfer of a particular Government employee has been well settled in the case Mrs. Shilpi Bose and others Vs. State of Bihar and others reported in AIR 1991 SC 532. In the

said case, Their Lordships of the Hon'ble Supreme Court have been pleased to hold that the courts should not interfere with a transfer order which ~~are~~ made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of mala fide or bias. A Government servant holding a transferable post has no vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. It has been further held that in case there is violation of any administrative instructions or orders then the affected party should move his higher authorities rather than interference by the Court. In the present case, the petitioner does not come up with a case of violation of any mandatory statutory rules or nor does he plead any malafide or bias on the part of the concerned authorities. Therefore, under such circumstances, the impugned order of transfer is liable to be ^{quashed} ~~rejected~~ ⁱⁿ ~~in~~ ^{line} ~~in~~ ^{line}. Since the court has been addressed by the learned counsel appearing for the petitioner on certain points, for the sake of maintenance of judicial propriety, the court has a duty to express its opinion on the contention advanced on behalf of the petitioner. It was submitted by Mr. Mohapatra learned counsel appearing for the petitioner that in the school at Visakhapatnam there

is no such subject which is being taught by the petitioner in INS Chilka. I do not feel inclined to accept the statement with utmost ^{at certainty} ~~sincerity~~ because the administrative authority who was ordered the transfer of the petitioner must have taken into consideration this aspect, if actually it exist. It is the duty of the concerned authority to entrust the same subject for which the petitioner has been appointed to be taught at Visakhapatnam. If the concerned authority is not able to provide such work then it is at his own risk, if the petitioner goes without any work at Visakhapatnam. In case the petitioner goes without work his emoluments to which he is legally entitled to shall not ^{be affected} ~~suffer~~ in any way. Therefore in my opinion, there is no point at all to urge that similar subject for teaching ^{is} ~~are~~ not available at Visakhapatnam. Conceding for the sake of argument that the above statement made by the learned counsel appearing for the petitioner on instruction is correct then it is for the administrative authority to do the needful instead of interference by the court as laid down in the case of Mrs. Shilpi Bose and others (Supra).

5. Mr. Ashok Misra learned Senior Standing Counsel (Central) appearing for the Opposite Parties invited my attention to the offer of appointment issued in favour of the present petitioner Shri Chaudhury on 3rd September, 1982 and therein one would find that All India Transfer Liability has been imposed on the

Petitioner which he had accepted vide his undertaking dated 3rd September, 1982. Therefore, in my opinion, it is no longer open to the petitioner to challenge the order of transfer.

6. Mr. Ashok Misra learned Senior Standing Counsel (Central) also filed a copy of the Service Book etc. contained in the relevant file and had urged certain points to negative the contention of Mr. Mohapatra learned Counsel appearing for the Petitioner. They need not be stated as the relevant issue could be disposed of in view of the law laid down by Their Lordships of the Hon'ble Supreme Court in the case of Mrs. Shilpi Bose and others (Supra). I therefore, find no merit in this application which stands dismissed leaving the parties to bear their own cost.

7. Before I part with this case I must observe that this is a mid-academic session for the children of the Petitioner who are said to have been reading in a school at Khalikot. The final examination would be held very shortly. Departure of the petitioner from INS Chilka may jeopardise the interest of his children. Therefore, it is directed that the order of transfer of the petitioner may be kept in abeyance till 30th April, 1993 and the petitioner should hand over charge on 1st May, 1993 and after availing the joining time, as per rules, he should report to duty

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at Visakhapatnam.

K. Mohanty
24.2.93.

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VICE CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack/K. Mohanty/
February 1993.

