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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH :CUTTACK

O.A. No.233 OF 1993

Date of disposal: May 7, 1993

Shri Nilakantha Das

Applicant

Versus

Union of India and others

Respondents

For the Applicant

... M/s. R.N. Sutar,  
S. Muduli,  
P.K. Mohanty,  
Advocates.

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CORAM:

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

1. Whether reporters of local papers may be allowed to see the judgment? Yes.

2. To be referred to the reporters or not? *ND*

3. Whether His Lordship wish to see the fair copy of the judgment? Yes.

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JUDGMENT  
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K.P.ACHARYA, V.C.

In this application under section 19 of the Administrative Tribunals Act, 1985, the petitioner prays to quash the order dated 27th April, 1993 passed by the Senior Divisional Personnel Officer, South Eastern Railway, Khargpur contained in Annexure 5.

2. Shortly stated the case of the petitioner is that he is now functioning as Assistant Station Master, Soro Railway Station. The petitioner has been transferred vide annexure 5 dated 27th April, 1993 to Hijil station - one extreme end of the of the South Eastern Railway. Hence this application has been filed with the aforesaid prayer.

3. Without giving notice to the Opposite Parties, I have heard this case on merit for the reasons recorded in the order sheet. I have heard Mr. R.N. Sutar learned counsel appearing for the petitioner in extenso. Before I deal with the merits of this case, it is worthwhile to mention that law is well settled that a transfer order cannot be interfered with unless the transfer order is <sup>has</sup> resulted from mala fide on the part of the competent authority and/or there is violation of statutory mandatory rules. Mr. Sutar learned

counsel appearing for the petitioner pleaded that there is mala fide on the part of the competent authority. To substantiate this contention, it was submitted that since the General Manager was pleased to cancel the order of suspension passed against the petitioner, he has therefore, been transferred as a second ~~string to the bow~~. I cannot find this to be a good ground to hold that there was malafide on the part of the competent authority. The petitioner has joined a transferable service. Of course Hijli Station is too long way ~~off from~~ Soro Railway Station. No doubt, the petitioner will face insurmountable difficulty to go to another State. But these are matters for the competent authority to decide as has been held in the case of Mrs. Shilpi Bose Vs. State of Bihar and Others reported in AIR 1991 SC 532. Therefore, I have no objection if the petitioner files a representation before the General Manager for reconsideration of the matter and in case representation is filed within fifteen days from today by the petitioner before the General Manager, orders according to law, be passed by the General Manager as he deems fit and proper. But for the present, I would direct that operation of the

order of transfer contained in Annexure 5 transferring the petitioner from Soro to Hijil Station is hereby stayed till 30th June, 1993 as the examinations for the school going children is knocking at the door. It would not be proper to transfer the petitioner from Soro during the academic session. I hope and trust, the General Manager would also pass orders within 30th June, 1993 on the representation to be filed by the petitioner. In case the General Manager is not able to dispose of the representation by 30th June, 1993 then the stay order shall stand extended till orders are passed by the General Manager.

4. Thus, the application is accordingly disposed of. There would be no order as to costs.

5. Send a copy of this judgment immediately to the Opposite Parties and a copy of this judgment be delivered to Mr. Sutar learned counsel appearing for the petitioner by 10th instant so that the petitioner would be able to make a representation to the General Manager as indicated above. Service of copy of the judgment on Mr. Sutar learned counsel appearing for the petitioner would be deemed to be service copy of the judgment on the petitioner.



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VICE CHAIRMAN

*.....  
S. Mohanty  
7.5.93.*

Central Administrative Tribunal,  
Cuttack Bench, Cuttack/K. Mohanty/  
7.5.93.