

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No. 501 of 1993

Date of Decision: 15.9.1993

Birendra Nath Biswas

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 ? **ND**

MEMBER (ADMINISTRATIVE)

15 SEP 93

Leigh 15/9/93
VICE-CHAIRMAN

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK**

Original Application No.501 of 1993

Date of Decision: 15.9.1993

Birendra Nath Biswas Applicant

Versus

Union of India & Others

Respondents

For the applicant

M/s.B.Chakraborti
S.K.Samantray,
Advocates

For the respondents

C O R A M S

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

AND

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

JUDGMENT

MR .K.P.ACHARYA, VICE-CHAIRMAN, We have heard Mr .B.Chakraborti, learned
counsel for the petitioner at the stage of admission.
In this application the petitioner prays to quash the
order of transfer passed by the competent authority,
transferring the petitioner from Sambalpur to Kantabanji.
Admittedly, the petitioner has not been served with a copy
of the order of transfer and therefore, a copy of the said
order has not been filed in this case. In such circumstances
we do not like to entertain the petition at this stage.

2. Mr. Chakraborty drew our attention to the different documents indicating the desire of the petitioner to be transferred and posted in Sialda Division ^{and} ~~that~~ the representation filed by the petitioner to that effect has not been disposed of as yet by the competent authority. The said representation ^{is} ~~contains~~ in Annexures-E & F dated

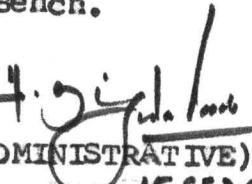
22.1.1993 addressed to the Chief Personnel Officer, South Eastern Railways, Garden Reach, Calcutta. It was told to us by Mr. Chakraborty that no orders have yet been passed by the Chief Personnel Officer on these representations, and he further submitted that the transfer order passed by the competent authority transferring the petitioner from Sambalpur to Kantabanji should be made effective only after the representation is disposed of by the competent authority. We are unable to accept this submission of Mr. Chakraborty as request of the petitioner for transfer to Sialda Division has no connection with his transfer to Kantabanji. We would direct that the representation filed by the petitioner (as stated above) be disposed of by the Chief Personnel Officer S.E.Railway, Garden Reach, Calcutta within 30 days from the date of receipt of a copy of this judgment.

3. Apart from non-filing of the transfer order, in the case of Mrs. Shilpi Bose and others vs. State of Bihar and others reported in AIR 1991 SC 532, and in the case of S.L. Abas vs. Union of India & Others reported in Judgment Today 1993 (3) 678, Their Lordships have held that a transfer order cannot be interfered with by Courts, unless it has resulted from malafide or violation of statutory, mandatory rules. After hearing Mr. Chakraborty, we are of opinion that such a case has not been made out by the petitioner. Therefore, we find no merit in this petition which stands dismissed.

4. Mr. Chakraborty submitted that in the mid-academic session, if the petitioner goes and joins at Kantabanji, it would be very ^{much} detrimental to the interest of his _{1/2}

children's education. We think there is substantial force in the contention of Mr. Chakraborty. Therefore, we would direct that the petitioner will remain in occupation of the quarters, which he is now occupying till 31.12.1993 on payment of usual rent. In the meanwhile, if the representation filed by the petitioner is allowed by the Chief Personnel Officer, and the petitioner moves out to S^halda Division, then he has to vacate the quarters within the permissible period as per rules. Thus the application is accordingly disposed of. No costs.

5. While sending a copy of this judgment ^{to} the Chief Personnel Officer, S.E.Railways, Garden Reach, Calcutta, Registry should invite special attention of the Chief Personnel Officer to the directions given in the judgment by this Bench.

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MEMBER (ADMINISTRATIVE)

15 SEP 93


15/9/93
VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench Cuttack
dated the 15.9.1993/B.K.Sahoo