

5

9

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No. 582 of 1993

Date of Decision: 9.2.1994

Surendranath Samal

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*

9.2.94
VICE-CHAIRMAN

10

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No. 582 of 1993

Date of Decision: 9.2. 1994

Surendranath Samal Applicant

Versus

Union of India & Others Respondents

For the applicant M/s. Ganeswar Rath
 J.C. Sahoo
 S.N. Mishra,
 Advocates

For the respondents Mr. Ashok Mishra,
 Sr. Standing Counsel
 (Central)

C O R A M:

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

JUDGMENT

MR. K. P. ACHARYA, VICE-CHAIRMAN: In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner prays to quash the order passed by the competent authority transferring him from Cuttack to Silchar.

2. Shortly stated the case of the petitioner is that he is working as Hidi Officer in the All India Radio, Cuttack. Vide Annexure - 1 dated 25th June, 1993, the petitioner has been transferred from Cuttack to Silchar. Hence this application has been filed with the aforesaid prayer.

3. In their counter the opposite parties maintain that since the ground taken by the petitioner is in regard to his personal inconvenience, the matter should be left to the authorities concerned for consideration as has been laid down in several judgments of the Hon'ble Supreme Court.

V/s

4. I have heard Mr. Ganeswar Rath, learned counsel for the petitioner and Mr. Ashok Mishra, learned Standing Counsel. Law is well settled in a plethora of judicial pronouncements (which was not rightly and fairly disputed at the Bar) that a transfer order could be quashed only on the ground of malafide and violation of statutory mandatory rules. Furthermore it has been held by the Hon'ble Supreme Court that in case there is violation of administrative instructions, the Court should not interfere - rather the affected party should move his higher authorities.

5. In the present case, the petitioner's father was suffering from heart trouble and later in the present application it is averred that the petitioner's old father is now suffering from cancer. Departure of the petitioner from Cuttack would be dangerous for the life of the petitioner's father, because there is none to attend him. In such a situation I would leave this matter to the higher authorities of the petitioner to sympathetically consider the case of the petitioner, especially in view of the averments finding place in paragraph-10 of the counter which runs thus :

" That in reply to paragraph-5(d) of the original application, it is submitted that this Department would sympathetically consider granting him extension of time to join at All India Radio, Silchar depending upon his producing proper medical certificates showing the investigation of the disease of his father and nature of treatment."

From the above quoted averments finding place in the counter, I have absolutely no iota of doubt in my mind to hold that the opposite parties have been taken away

8

12

sympathy over the petitioner. Therefore, the petitioner is directed to file a representation before the appropriate authority accompanied by necessary medical certificates indicating the nature of disease from which the petitioner's father is suffering and the treatment, ^{is} ~~that~~ being offered to him. This representation should be filed before the appropriate authorities within 10 days from to-day and within 30 days therefrom, the representation should be disposed of by the competent authority. I hope and trust the competent authority would take utmost sympathy over the petitioner if the authority is satisfied that the petitioner's father is suffering from Cancer. Till final disposal of the representation, the petitioner should not be disturbed from Cuttack. The petitioner will abide by the order passed by the competent authority on the representation to be filed by him. Thus the application is accordingly disposed of leaving the parties to bear their own costs.


9.2.94
VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench Cuttack
dated the 9.2.1994/ B.K. Sahoo