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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 61 of 1993.

Date of decision : April 27, 1993.

Satish Chandra Nanda ...

Applicant.

Versus

D.G., A.I.R. and others ...

Respondents.

For the applicant ...

M/s. S.K. Ghose,
C.R. Nanda,
B.N. Udgata, Advocates.

For the respondents ...

Mr. Ashok Kr. Misra,
Sr. Standing Counsel (Central)

C O R A M:

THE HONOURABLE 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 ? ☒
3. Whether His Lordship wishes 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 applicant prays to quash the order contained in Annexure-1 transferring him from Sambalpur to Jeypore.

2. Shortly stated, the case of the applicant is that at present he is functioning as Senior Engineering Assistant attached to the All India Radio, stationed at Sambalpur. Vide order dated 28.1.1993 contained in Annexure-1 he has been transferred to Jeypore. Hence, this application with the aforesaid prayer.

3. In their counter, the respondents maintained that the transfer is in exigencies of service and in administrative interest and therefore, the same should not be unsettled.

4. I have heard Mr.C.R.Nanda, learned counsel for the applicant and Mr.Ashok Kr.Misra, learned Senior Standing Counsel(Central). Rightly, Mr.Ashok Misra contended that in view of the law laid down in the case of Mrs. Shilpi Bose and others vrs. State of Bihar and others, reported in AIR 1991 SC 532, in the absence of any malafide having been pleaded and in the absence of any violation of statutory mandatory rules, the application should be in limine dismissed. As a matter of fact, there is no plea of malafide and equally there is no case set up by the applicant that there has been any violation of statutory mandatory rules. The only

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point urged by the applicant's counsel is that in the midst of academic session if the applicant leaves Sambalpur and joins at Jeypore the studies of his children would be seriously hampered. It was next contended that the wife of the applicant being seriously ill, the transfer order should be cancelled. Furthermore, it was stated by applicant's counsel that there is a post vacant at Cuttack, the applicant should be adjusted against that vacancy. So far as the illness of the wife of the applicant is concerned, there is no medical certificate filed on record. Therefore, I am not prepared to accept this contention. At present, examinations in different schools and colleges are going on. Really there would be insurmountable difficulty if the applicant would leave Sambalpur and joins at Jeypore. Therefore, it is directed that the order of transfer contained in Annexure-1 be kept in abeyance till 15.7.1993 and the applicant would handover charge on 16.7.1993 and join his new place of posting at Jeypore soon thereafter after availing the transit as per rules. I have no objection if the applicant makes an application to the competent authority to consider his transfer and posting at Cuttack, if there is any vacant post. The competent authority would pass orders according to law. I express no opinion.

5. Thus, this application is accordingly

disposed of leaving the parties to bear their own costs.

[Signature]
27.4.93
.....
VICE-CHAIRMAN.

Central Admn. Tribunal,
Cuttack Bench, Cuttack.
April 27, 1993/Saranghi.