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CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No. 216 of 1994

Cuttack this the 24th day of February, 1995

Dr. H.K. Panda

Applicant (s)

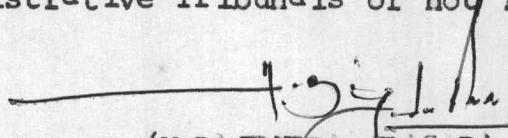
Versus

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.


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

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C O R A M:

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

Dr. Hrusikesh Panda, aged about 41 years,
son of T.N. Panda, at present working as
Programme Executive, Regional Training
Institute, All India Radio, Cuttack

Applicant/s

By the Advocate: M/s. Deepak Mishra
R.N. Naik
A. Deo
B.S. Tripathy &
P. Panda

Versus

1. Union of India, represented by its
Secretary, Ministry of Information
and Broadcasting, New Delhi
2. Director General, All India Radio
Akasvani Bhawan, New Delhi-110001
3. Deputy Director (Administration)
Office of the Director General, AIR
Akasvani Bhawan, New Delhi-110001
4. Sri Suresh Chandra Das, at present
working as Programme Executive,
All India Radio, Cuttack

Respondent/s

By the Advocate: Shri Ashok Mishra,
Sr. Standing Counsel (Central)

O R D E R

MR. H. RAJENDRA PRASAD, MEMBER (ADMN): The applicant, Shri H.K. Panda,
was appointed Programme Executive and posted to A.I.R.,
Jeypore on 31.8.1984 and transferred to Cuttack on
16.6.1986. In September, 1993, one Shri S.M. Pati,
Farm Radio Officer, AIR, Baripada, was transferred to
AIR, Bhawanipatna. The said Shri Pati is said to have
represented for his retention at Baripada on account
of some personal difficulties. The representation was

considered and accepted and he was retained at Baripada. To fill the unfilled vacancy at Bhawanipatna owing to the cancellation of Shri Pati's posting, the applicant was transferred from AIR Cuttack to AIR Bhawanipatna vide D.G. AIR Order No.70/94-SI(B) in file No.13/37/88-SI(B) dated 8.4.1994.

2. The present application is against this posting order. This Tribunal stayed the transfer on 21.4.1994. The counter was filed on 24.8.1994 and the case was adjourned on a number of days although listed for hearing. The case has had to be adjourned at various times and rejoinders, Misc.applications, affidavits and counter to the said affidavits were successively filed by the parties concerned.

3. The main grievance of the applicant is that his wife is serving in a school in Cuttack and his three daughters are studying in different schools and colleges in the same place. His move from Cuttack would, therefore, disrupt the family. Moreover, the applicant is said to be keeping indifferent health for quite sometime. It is his apprehension that he will not get proper medical attention at Bhawanipatna. The applicant has filed a number of documents issued by Out-door dispensaries, S.C.B. Hospital, Cuttack, besides a number of papers issued by hospitals in Madras, S.C.B. Medical College, and Professors of Medicine of the said College. These papers show that the applicant has some health problems like hypertension, acute gastritis, fainting fits,

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and occasional loss of consciousness.

4. One other grievance of the applicant is that Shri S.C. Dash, another Programme Executive, AIR, Cuttack, has been serving in Cuttack for a longer time than himself and remains untouched whereas he has been posted out to Bhawanipatna. In support of his plea, the applicant cites his service from 13.8.1984 to 16.6.1986 at AIR, Jeypore, a difficult ('C' Category) station. He draws attention to Clauses X and XI of the transfer policy document issued by Respondent 1, vide NO.A 11019/22/81-SCOR dated 4.8.1981 which are as follows :

X. As far as possible every employee will be posted to category 'C' Station at least once during his service.

XI. Persons who already had a spell of posting at a 'C' station would not be posted to such a station a second time if there are candidates in the same grade who are still to be posted to such a station. They may, however, be posted again on promotion.
of the same document

5. Clause XXV stipulates that transfers will, as far as possible, be synchronised with the end of the academic year so that the education of children does not suffer.

6. The respondents in their counter-affidavit point out that Programme Executives of AIR have an all-India transfer liability, that the transfer of the applicant was ordered in public interest, ^{and} that he has no legal right to insist on the posting in any one place. They also point out that ~~once~~ once before he was transferred a 2nd time to Jeypore in April, 1990, but the same was cancelled on consideration of his

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S. C. Dash

representation. The respondents point out that on an even earlier occasion the applicant had been posted to Jeypore in 13.8.1984 but was retained on consideration of his representation. They draw attention to the fact that on the present occasion he has not even made a representation to any of his higher authorities, or exhausted other remedies, before coming to the Tribunal. He has been continuing since 16.6.1986 at Cuttack and his posting, which had become overdue, is, therefore, quite in order and should not be interfered with. The details of the service-record of Shri S.C. Das furnished by the Respondents reveal that the official, originally recruited as Studio Executive, was promoted to Transmission Executive and posted to Sambalpur on 15.5.1974. He was transferred again to Cuttack AIR from 14.1.1976, and has been working either in the Commercial Broadcasting Service Section of the AIR or in the main AIR, Cuttack, since that date. The respondents say that Shri Das, having once worked in Sambalpur from June, 1974 to January, 1976, has also served in a 'C' Class Station. From the facts of their service record it is clear that both these officials have stayed in Cuttack for a long period stretching to nearly two decades. To that extent both are liable for transfer. No one can claim a right to continue indefinitely in one place. It is entirely for the authorities to consider the suitability of manning particular posts within their organisation by

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selecting suitable candidates. No malafides have been
alleged or ^{are} present. To that extent there is no ground
to interfere in what appears to be a normal transfer.

The applicant has sought to project his
present posting to R.T.I., Cuttack, as one entailing
or requiring specialised skills or training. This is
totally denied by the respondents. It has to be held
that his present posting does not constitute a
specialised appointment, or confer any special status
on ^{him} (or exemption from) deployment to any other post
within the same cadre, nor are there any impediments
to post him outside the RTI, if the interests of
service so demand.

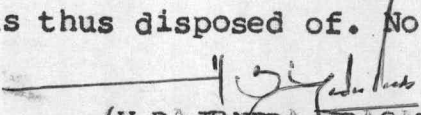
7. Having said this, it is also necessary to
point out that the need for the impugned posting order
arose mainly on account of the request of Shri Pati
for his retention at Baripada having been acceded to.
Under the circumstances, it would have been desirable
to closely examine which of the two, i.e., the applicant,
or Respondent 4, had lesser claim to be retained in
their present job, and which of the two had to be
shifted to Bhawanipatna. There is some force in the
plea of the applicant that he has already worked in a
difficult station. It is seen that Shri Das worked in
Sambalpur during 1974 to 76 when it was classified
as category B station; it was declared C station only
from 1981 onwards. While this is so, it is also seen
that the applicant worked in Jeypore which stood

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categorised as 'C' station during June 1984 to January, 1986, when the applicant was actually posted there. The distinction is clear. Furthermore, the applicant seems also to have considerable health problems which too may merit some consideration.

8. It is noted that the applicant has not made any representation expressing his difficulties to his authorities. This cannot be appreciated. He shall now submit a proper representation to the authorities setting out his problems and grievances, if any, within ten days from the date of receipt by him of these orders. The respondents shall thereafter consider it and take a suitable decision in the matter after examining the service-record and claims of the applicant and those of any of his other colleagues at Cuttack, in consonance with Clause X, XI and specially XXV, of the transfer-policy contained in 3/1/89-SCOR/VOL-II dated 16.1.1993. The orders contained in DG AIR Memo No.70/94-SI(B) in File No.13/37/88-SI(B) dated 8.4.1994, shall not be operated until the disposal of the representation submitted by the applicant as directed now. The applicant shall thereafter abide by such decision that may be communicated to him in this regard by his superior authorities.

The application is thus disposed of. No costs.


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

B.K.Sahoo//

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