

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O.A. No. 247 of 1994

Sudarshan Swain

... Applicant

Versus

Union of India & Others

... Respondents

O.A. No. 248 of 1994

Pitambar Swain

... Applicant

Versus

Union of India and others

... Respondents

Date of decision: April 29, 1994

For the Applicants ... Mrs. Meera Das,
(in all the cases) Mrs. J. Mohapatra,
M/s M. Mohanty,
M. Mohapatra,
Advocates.

For the Respondents ... Mr. U. B. Mohapatra, Additional
(in all the cases) Standing Counsel (Central)

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CORAM:

THE HONOURABLE MR. K.P. ACHARYA, VICE-CHAIRMAN
AND
THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN.)

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JUDGMENT

K.P. ACHARYA, V.C.

Both these cases were heard on the question of admission one after the other. Since the common questions of fact and law are involved in this case, it is directed that this common judgment would govern all the cases mentioned above.

2.

In original application No. 247 of 1994,

petitioner Shri Sudarshan Swain and in Original Application No.248 of 1994, Petitioner Shri Pitambar Swain were working in the Paddy cum Fish Culture Centre, of Central Institute of Fresh Water Acquaculture at Kausalyagang. Vide order dated 31st January, 1994, Petitioner Shri Sudarshan Swain has been transferred to a project at Malkanagiri and Petitioner Shri Pitambar Swain has been transferred to a project in Keonjhar District. Both these applications have been filed with a prayer to quash the orders passed by the competent authority transferring the petitioners to Malkanagiri and Keonjhar respectively.

2. We have heard Mrs. Meera Das learned counsel appearing for the petitioners in both these cases and Mr. U.B. Mohapatra learned Additional Standing Counsel in both these applications on merits. Mrs. Das vehemently pressed before us that the guidelines laid down in the manual of administrative instructions to the effect that Group 'C' and 'D' employees should not be transferred to out side stations except in exigency of Public Service has not been followed by the competent authority and therefore, the impugned order of transfer in both the cases should be quashed.

3. On a careful perusal of the office order dated 31st January, 1994, one would find that the Paddy cum Fish Culture centre of the Central Institute of

Fresh Water Acquaculture has been woundup with effect from 1st February, 1994. Therefore, we are bound to presume that the posts held by both the petitioners are nonexistent. It was very well open to the concerned authority to terminate the services of the Petitioners. But a sympathetic view was taken by the authorities to give some employment to the petitioners and therefore, they have been transferred to Koraput and Keonjhar respectively. In view of the fact that the posts do not exist, it would be against all canons of Justice, Equity and Fairplay to pass an interim order staying operation of the impugned order of transfer. Therefore, we find no merit in both these cases which stand dismissed. No costs.

Sd/- H. Rajendra Prasad
MEMBER (ADMINISTRATIVE)
29 APR 94

Sd/- K.P. Acharya
VICE CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench/K. Mohanty/29.4.94