

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No.457 of 1994

Date of Decision: 25.11.1994

Smt.P.L. Mohanty

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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CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No. 457 of 1994

Cuttack this the 25th day of November, 1994

C O R A M:

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

...

Smt. Pravati Lata Mohanty, aged about 34, years
W/o. Dibakar Mohanty, Female Staff Nurse
Qr. No. 49, Tupe-II, G.C. Hospital
Central Reserve Police Force
Bhubaneswar, Dist: Khurda

... Applicant/s

By the Advocate Shri D.N. Mishra

Versus

1. Union of India represented by
Secretary, Home Department
New Delhi
2. The Deputy Director (Medical)
Directorate General,
Central Reserve Police Force
C.G.O. Complex, Lodhi Road
NEW DELHI-110003
3. The Inspector General of Police,
Central Reserve Police Force
New Delhi
4. The Addl. Deputy Inspector General
of Police, Group Centre,
Central Reserve Police Force
Bhubaneswar, Dist: Khurda
5. The Medical Officer, I/c.
Group Centre, Central Reserve Police
Bhubaneswar, Dist: Khurda

... Respondents

By the Advocate: Shri Akhaya Mishra,
Addl. Standing Counsel (Central)

...
O R D E R

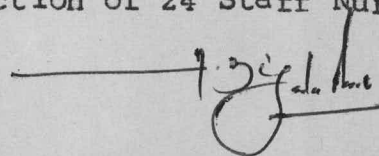
H. RAJENDRA PRASAD, MEMBER (ADMN): The applicant, Smt. Pravati Lata Mohanty, was initially appointed Female Staff Nurse in the Central Reserve Police Force in May, 1983. After a nine-year spell with the Group Centre, Bhubaneswar, she was transferred to the Group Centre at Durgapur in May, 1992, and was posted back, at her own request

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but without the usual Transfer/Travelling Allowance, to Bhubaneswar, in February, 1994 (Annexure-1). Barely three months later, in May, 1994, orders were issued posting her to Gurgaon (Annexure-2) whereupon she represented to the Deputy Director (Medical), Directorate General of C.R.P.F., explaining the domestic and personal difficulties she might have to face if she were moved out of Bhubaneswar at that juncture (Annexure-3). The representation was duly considered a reasoned reply was given as to why her request for retention at Bhubaneswar could not be acceded to (Annexure-4).

2. Aggrieved by the decision, Smt. Mohanty filed this application under Section 19 of the Administrative Tribunals Act, 1985, on 3rd August, 1994, seeking the quashing of the order posting her out of Bhubaneswar to Durgapur. The transfer was temporarily stayed and the Respondents were asked to file a counter by 1st September, 1994. A short date was purposely fixed for the next hearing since the transfer had had to be stayed as an interim measure. The counter was, however, filed by the respondents only on 19th October, 1994, because of which the case, although posted on 5th, 6th, 12th, 14th and 21st September, 1994, could not be heard earlier.

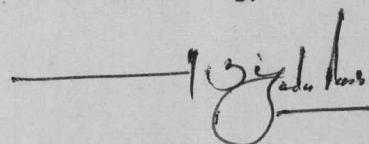
3. The respondents in their counter-affidavit give the background to the petitioner's transfer: (a) a new Group Centre had been raised in Gurgaon (para 9 of the counter) and (b) as many as 234 posts out of the then existing total of 428 posts of Peace Keeping elements ^{to be abolished,} were ordered, necessitating a reduction of 24 Staff Nurses



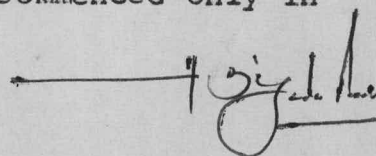
among others(Annexure-R/1). This reduction had to be distributed among various units throughout the country, keeping in view the actual requirements of each. It was thus found necessary to abolish two posts of female staff nurses in the Group Centre at Bhubaneswar, rendering two of them existing three posts surplus vis-a-vis the curtailed establishment. It is explained that two of the posts, against one of which the petitioner was posted to Durgapur/Bhubaneswar, having been abolished, she, along with one more staff nurse, Smt. Smita Mohanty, has had to be necessarily moved out of the Group Centre at Bhubaneswar. The fact that the petitioner had spent nine years in the station in the earlier spell and again five months ~~between~~ in **February** and July, 1994, in the subsequent (current) spell, persuaded them to order her posting out of Bhubaneswar.

4. The basic reasons which necessitated the transfer of some staff nurses from their existing stations, viz., creation of new Group Centres and, parallely, abolition of posts, is sound and acceptable. The need for transfers decided upon by the authorities in these circumstances is not in itself objectionable, and the petitioner's allegations of mala fides, punitive nature of the transfer and arbitrariness, are uncalled for overstatements of her case. These allegations are not accepted.

5. Having conceded the circumstances leading to the impugned transfer as valid and convincing, it remains



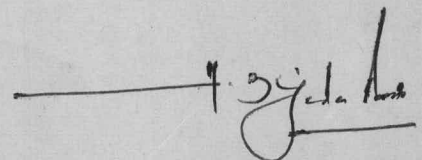
to be added that the process of selecting the personnel for the ^{consequent} postings is not equally convincing. The accepted drill in all cases involving reduction of establishment, abolition of posts and curtailment of cadres, is not only to identify the specific posts to be reduced but also to notify the posts so identified. This has evidently not been done in the instant case. Next, while identifying the persons to be transferred consequent on such abolitions/curtailments, the standard practice is to move out the juniors. 'Last come, first go' is by now a well-accepted principle governing situations precisely such as the present one. The petitioner does not appear to be the junior-most ~~or~~ or even longest-serving official in the present station. Moreover, the tenure of any incumbent is to be counted from the date of commencement of her present or current posting and it would be incorrect to include the earlier spells, if any, spent in the same station/post for this purpose. In the present case, the petitioner spent nearly two years at Durgapur between 1992 to 1994. She was posted back, - albeit at her own request, because of which, it needs to be noted, she has had also to forego the normal T.A. benefits. Having considered her request favourably, it would appear unfair now to hark back to the earlier spell spent by her in the station. Actually, it would be correct to hold that with her posting to Durgapur in 1992, the earlier station - tenure had ended, and that the new station-tenure has commenced only in



February, 1994. This aspect needs a fresh look by the authorities.


6. A reconsideration of the petitioner's request is therefore commended, in the light of the problems stated by her, and more particularly in the light of of the observations contained in para 5 above. A final decision in the matter may thereafter be communicated to the petitioner within thirty days from to-day.

7. It is stated by the petitioner that she was on leave on medical grounds from 19.7. to 10.8.1994, that the leave was duly sanctioned and she was permitted to rejoin her duties on 11.8.1994, that she was allowed thereafter to perform her normal duties upto 16.8.1994. It needs to be examined how, if at all she had been relieved on 21.7.1994, i.e., much prior to the receipt of the orders of stay, she was permitted to rejoin duty on 11.8.1994 and allowed to perform duties upto 16.8.1994. She also complains of non-payment of salary for the periods of leave and duty. Her complaints in this regard need to be looked into urgently with a view to alleviating her distress, if what she says is true. At the least, necessary leave, as admissible, is required to be sanctioned at the earliest and such pay and allowances, as due, need to be released. This aspect of the matter may also be settled and necessary orders passed and payments made within the same period as specified in the preceding para.



8. The applicant shall be free to agitate
afresh
her grievance before this Tribunal, if so advised,
after the action as directed above has been taken by
the respondents and communicated.

Thus the original application is disposed
of. No costs.


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

25 NOV 94

B.K.Sahoo//