

9

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 523 OF 1994

Cuttack, this 2nd day of May '97

Dr. Padma Charan Choudhury

.....

Applicant

Vrs.

Union of India and others

.....

Respondents

(FOR INSTRUCTIONS)

- 1) Whether it be referred to the Reporters or not? Yes.
- 2) Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? no.

J. Somnath Som
(S.SOM)
VICE-CHAIRMAN 2.5.97

10

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 523 OF 1994

Cuttack, this the 2nd day of May, 1997

CORAM:

HON'BLE SRI S.SOM, VICE-CHAIRMAN

...

Dr. Padma Charan Choudhury,
aged about 51 years,
son of late Bhagirathi Choudhury,
at present working as Chief Medical Officer,
P.H.C., Nishikhal,
At/PO/District-Koraput Applicant

-versus-

1. Union of India, represented by
Secretary to Government of India,
Ministry of Health, Nirman Bhawan,
New Delhi.
2. Secretary to Government of India,
Ministry of Labour, Jaisalwar House,
Mansingh Road,
New Delhi.
3. Welfare Commissioner,
Labour Welfare Organisation,
Government of India,
33-Ashok Nagar, Bhubaneswar-9,
District-Khurda.
4. Assistant Welfare Commissioner,
Labour Welfare Organisation,
Government of India, Barbil,
District- Keonjhar Respondents.

Advocates for applicant - M/s A. Deo, R.N. Naik, B.S.
Tripathy, P. Panda & P.K. Misra.

Advocate for respondents - Mr. Akhaya Ku. Misra,
Addl. C.G. Standing Counsel.

O R D E R

*Common Jan.
2.5.97*

S.SOM, V.C.

In this application under Section 19 of the Administrative
Tribunals Act, 1985, the applicant has prayed for travelling
allowance on his transfer from Aska in the District of Ganjam
to Nishikhal in the District of Koraput. He has also prayed for

quashing Annexure-11 enclosing a copy of the letter dated 12.6.1991 from Ministry of Health & Family Welfare rejecting his prayer to treat the above transfer to be in public interest thereby depriving him of travelling allowance.

2. The facts of this case are that the applicant, while working in Regional Leprosy Training & Research Institute, Aska, represented to the Ministry of Health & Family Welfare, in his letter dated 30.1.1991 (Annexure-5) for posting him to P.H.C., Nishikhal in the district of Koraput, under the Ministry of Labour. On this representation, the Ministry of Health and Family Welfare, in their order dated 6.3.1991, transferred the applicant from R.L.T.R.I, Aska to P.H.C., Nishikhal, and in this order it was mentioned that as the transfer was made on his own request, no travelling allowance or joining time would be admissible to him. In the present application, the applicant has mentioned that his transfer to P.H.C., Nishikhal, was in public interest and he should be allowed travelling allowance and joining time. He has made repeated representations, but those have been rejected, as has been referred to earlier. The applicant has stated that in the case of one Dr. Sabita Mishra, Ministry of Health & Family Welfare had originally issued order transferring her from Central Rice Research Institute, Cuttack, to Central Government Health Scheme, New Delhi, at her own request, but later on by order dated 31.3.1986 the original order was changed and her transfer was made in public interest. In view of this, the applicant wants that the same should be done in his case also.

3. I have heard the learned lawyer for the applicant and the learned Additional Standing Counsel appearing on behalf of the respondents. The general condition of admissibility of travelling allowance on transfer has been laid down in S.R. 114 which is quoted below:

"S.R. 114. Travelling allowance may not be drawn under this section by a Government servant on transfer from one

Journal
2.5.97

station to another unless he is transferred for the public convenience and is entitled to pay during the period occupied by the journey. A transfer at his own request should not be treated as a transfer for the public convenience unless the authority sanctioning the transfer, for special reasons which should be recorded, otherwise directs. "

From the above, it would be seen that generally a transfer at the request of the Government servant concerned should not be treated as a transfer for the public convenience. It can be so treated only when the authority sanctioning the transfer, for special reasons to be recorded, directs that the transfer would be treated as one for public convenience. That is a matter entirely for the departmental authorities and it would not be correct for the Tribunal to take a view different from what the departmental authorities have taken. The learned lawyer for the applicant has brought to my notice the fact that doctor at P.H.C., Nishikhal, where the applicant was posted by way of transfer, was absent for long and there were public complaints. But that would not make his transfer one in public interest. In a way, all transfers are in public transfer. A transfer at the request of the government servant cannot be against public interest, because in such a case the transfer should not at all be done. But the Rules specifically provide that where the Government servant has been transferred at his own request, normally travelling allowance shall not be allowed unless the departmental authorities specifically so direct. In that view of the matter, I hold that the prayer of the applicant for getting travelling allowance on his transfer from R.L.T.R.I., Aska, to P.H.C., Nishikhal, is without any merit and is rejected.

4. In the impugned order dated 6.3.1991 (Annexure-7) it has also been indicated that for going from Aska to Nishikhal, the applicant will not be entitled to any joining time. The Rule quoted above relates only to sanction of travelling allowance in

12
Jomnitham
2.5.97

13

13

such cases. In Government of India, Ministry of Home Affairs , Department of Personnel & Administrative Reforms, Office Memorandum No.19011/38/81-Estt.(Allowance), dated 29.1.1983, it has been provided that in case of a transfer on own request, joining time cannot be allowed, but regular leave may be granted to cover the transit period. This is in accordance with the Central Civil Services (Joining Time) Rules, 1979. In view of this, the applicant is also not entitled to any joining time for the above transfer.

5. In consideration of the above, I hold that the application is without any merit and the same is hereby rejected. No costs.

S. Somnath Somnath
(S.SOM)
VICE-CHAIRMAN 2.5.97