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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No. 758 of 1994

Cuttack this the 6th day of March, 1995

Gayadhar Swain

Applicant(s)

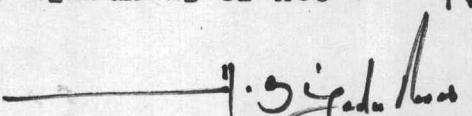
Versus

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)

06 MAR 95

CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

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Cuttack this the 6th day of March, 1995

C O R A M:

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

Gayadhar Swain, aged about 40 years
S/o. Late Govinda Chandra Swain
At/PO: Mashara, Dist: Jajpur
At present working as Investigator
in the office of Assistant Director
National Sample Survey Organisation (Field)
(Operation Division) Regional Office,
Orissa (West) G.M. College Road, At/PO/
Dist: Sambalpur

Applicant/s

By the Advocate: M/s. Pradipta Mohanty
D.N. Mohapatra

Versus

1. Union of India, represented by the
Director, Government of India, Ministry
of Planning and Programme Implementation
Department of Statistics, National Sample
Survey Organisation (Field Operation Division)
Hall No. 327, C. Block, 3rd Floor Pushpa Bhawan
Madangiri Road, New Delhi-110062

2. Regional Assistant Director
National Sample Survey Organisation
(Field Operation Division) Orissa (W) Region
G.M. College Road, At/PO/Dist: Sambalpur-1

3. Regional Assistant Director
National Sample Survey Organisation
(Field Operation Division) Orissa (E)
3-A Budheswari, Bhubaneswar-6,
Dist: Khurda

Respondent/s

By the Advocate: Shri A.K. Mishra
Addl. Standing Counsel (Central Government)

O R D E R

MR. H. RAJENDRA PRASAD, (ADMN): Shri Gayadhar Swain, Investigator
in the Office of the Assistant Director, NSSO, FOD,
Sambalpur, had been working in the said post since
21st August, 1981. He was posted to the Office of
the Assistant Director, NSSO (FOD), Bhubaneswar, on

1.5/Jan/95

19.12.1994. The applicant objects to the impugned posting on the twin-grounds that (a) Investigators are never transferred beyond the jurisdiction of one regional office to another and (b) his posting has been ordered in the middle of the academic year. He invokes an additional ground that, in view of the approaching elections to the State Legislature, all transfers are banned. He states that he has not been relieved yet. The applicant also makes a pointed reference to the fact that the Department has not so far evolved or laid down any transfer policy, and that he has also been prevented from proceeding on tours. He finally asserts that his transfer is in someway connected to an application he had filed earlier before this Tribunal (O.A.579/94) challenging his supercession in the matter of promotion to Assistant Superintendent (the said Original Application is pending disposal) and complains that even the normal T.A. on transfer has been denied to him.

2. The respondents in their counter-affidavit clarify that Investigators in the NSSO have an all India transfer liability and point out that there have been several instances of Investigators being posted out from one regional office to the other and, at times, even to offices outside the State. In order to minimise inconvenience to the applicant, he was posted to only Bhubaneswar and not to any of the other distant place since Bhubaneswar happens to be closer to his declared home-town than Sambalpur where he was working till recently. They explain further that the posting of

4.5.1
Signature

Shri Gayadhar Swain is in fact no more than a part of the chain necessitated due to the entry of many direct recruits who have had to be given a posting. They point out in this connection that besides Gayadhar Swain, many others have similarly been posted out of their present appointments in case where they have been working for a long time. The respondents further submit that there is no connection between his approaching the Tribunal (in O.A.579/94) questioning his non-promotion, and the present case. They also submit that the petitioner's work, appointment and/or transfer have no connection whatsoever with the forthcoming elections to the State Legislature and there is no order imposing a ban on routine transfers as far as NSSO is concerned. Contrary to the claim of the applicant, the respondents point out, he has been duly relieved on 26.12.1994 (Annexure-R/2). Finally, they submit that the applicant is indeed entitled to normal T.A. on his transfer as per rules and that nothing which is legitimate has been denied to him ~~as well~~ as incorrectly claimed by him.

3. It is seen that the applicant has been working for more than 13 years in his present post - a long station-tenure by any yardstick. Considering his transfer-liability and the length of his stay at Sambalpur, his posting to Bhubaneswar cannot be faulted or questioned. The respondents have also explained that he has been posted out along with 50 other officials in order to accommodate ~~new~~ new entrants. Thus, although it would have been better not to disturb the applicant before

T. Gayadhar

the end of the academic year, the reasons leading to such transfer have nevertheless been adequately explained. These are found acceptable. The guideline regarding non-transfer during academic year cannot be insisted upon as a matter of absolute right when it becomes, in a rare contingency, administratively unfeasible to adhere to the said guideline. Also, it is seen that, while the applicant pleads that his presence is necessary to guide the studies of his two sons studying in 3rd and 2nd standards, he is also keen on proceeding on long and frequent tours and in fact nurses a grievance on this score. As far tours, it is an internal matter of the department's functioning and it is upto the concerned authorities to regulate, permit, control/or restrict them depending on the needs and justification. If indeed he has been already relieved, as asserted by the respondents, the question of further tours may not arise.

4. I find no merit in the case. The application is disallowed. No costs.

1.54 p.m.
(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

06 MAR 95

B.K.Sahoo//