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(2)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH CUTTACK

Original Application No. 9 of 1994

Date of Decision: 14.1.1994

Bibhu Prasad Padhi

Applicant(s)

Versus

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? *W*
2. Whether it be circulated to all the Benches of the *ND*  
Central Administrative Tribunals or not ?

*by 14.1.94*  
VICE-CHAIRMAN

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Original Application No. 9 of 1994

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Respondents

For the applicant

M/s. Deepak Mishra  
R.N. Naik  
B.S. Tripathy,  
A. Deo, P. Panda,  
D.K. Sahu,  
Advocates

For the respondents

M. S. Mishra,  
Counsel

C O R A M:

THE HONOURABLE MR. K. P. ACHARYA, VICE - CHAIRMAN

JUDGMENT

MR. K. P. ACHARYA, VICE-CHAIRMAN: The petitioner, Shri Bibhu Prasad Padhi, has been appointed on Loyal Quota basis and posted in Khurda Road vide Memo No. P/OPTG/MINIS/94/01/ dated 5.1.1994 contained in Annexure-2. Vide Memo No. P/OPTG/TER/94/02/ dated 6/7.1.1994, the said Shri Padhi has been transferred to Bhadrak. This application has been filed with a prayer to quash the order of transfer and to give a direction to the opposite parties for allowing the petitioner to work at Khurda Road.

2. On the question of admission, I have heard Mr. Deepak Mishra, learned counsel for the petitioner at a considerable length. Since the petitioner has got an appointment on Loyal Quota basis and keeping in view the law laid down by Their Lordships of the Supreme Court in the case of Union of India & others vs. H.N. Kirtania,

reported in 1989 SCC (L&S) 481, Mrs. Shilpi Bose vs. State of Bihar and others reported in AIR 1991, SC 532, Union of India vs. S. L. Abas reported in Judgment To-day 1993(3) 678 and Rejandra Roy vs. Union of India & Others reported in AIR 1993 SC 1236 held that Courts should not interfere with the order of transfer unless it has resulted from malafide, bias or violation of statutory, mandatory rules and in the instant case no such malafide, bias or violation of administrative instructions have been pleaded or proved. I do not like to interfere with the order passed by the competent authority transferring the petitioner Shri B.P. Padhi from Khurda Road to Bhadrak. Lastly it was contended by Mr. Deepak Mishra that very recently the petitioner's mother has undergone an operation in her gall bladder and it would be extremely difficult for the son to part from his mother at this stage. For the said reason I feel inclined to keep the order of transfer in abeyance for a short while. It is directed that the order of transfer of the petitioner be kept in abeyance till 4.2.1994 and the petitioner should join the duty in his new place of posting at Bhadrak after availing the joining time/transit leave as per rules. Further more Mr. Mishra submitted that due to the family's difficulty, the petitioner intends to file a representation before the Divisional Railway Manager, Khurda Road placing his grievance/difficulties for sympathetic consideration of the D.R.M. I have no objection. The representation should be filed within three days from to-day, and I hope and trust the Divisional Railway Manager will dispose of the

representation within 2.2.1994. In case the representation is not disposed of by the date fixed, the petitioner must hand-over charge on 4.2.1994 and thereafter he should join at Bhadrak. If the representation of the petitioner is allowed by the DRM, the petitioner should be re-posted at Khurda Road. The D.R.M. may take his independent decision. Thus the application is accordingly disposed of leaving the parties to bear their own costs.

3. Send a copy of this judgment forthwith to the Divisional Railway Manager, S.E. Railways, Khurda Road (OP No. 2 in his name cover (Mr. A.K. Dash)).

*[Signature]*  
14.1.94  
VICE-CHAIRMAN

Central Administrative Tribunal  
Cuttack Bench Cuttack  
dated the 14.1.1994/B.K. Sahoo

