

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH :CUTTACK.

Original Application No.113 of 1994.

Date of decision : June 23,1994.

Ansuman Dey ...

Applicant.

Versus

Union of India and others ...


Respondents.

( FOR INSTRUCTIONS)

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

  
(H. RAJENDRA PRASAD)  
MEMBER (ADMINISTRATIVE)

23 JUN 94.

 23.6.94  
(K. P. ACHARYA)  
VICE-CHAIRMAN.

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For the applicant ...

Mr. B. N. Bhuyan.

Mrs. U. R. Padhi, Advocates.

For the respondents ...

Mr. Akhyay Kumar Misra,

Addl. Standing Counsel (Central)

CORAM:

THE HON'BLE MR. K. P. ACHARYA, VICE-CHAIRMAN

AND

THE HON'BLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN.)

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ORDER

K. P. ACHARYA, V.C., The applicant feels aggrieved because of the order passed by the competent authority transferring him from Bhubaneswar to Nagpur contained in Annexure-7 dated 28.2.1994.

2. The applicant is serving as Assistant Surveyor of Works (Electrical) under the Directorate General, All India Radio, Civil Construction Wing posted at Bhubaneswar. Vide Annexure-7 dated 28.2.1994 the applicant has been transferred in the same capacity to Nagpur Electrical Circle. Hence, this application has been filed with the aforesaid prayer.

3. In their counter, the respondents maintained that the applicant has been transferred to Nagpur <sup>in</sup> his own <sup>2</sup> ~~own~~

interest to remain in charge of current duties for which he would be paid extra emoluments. Therefore, the transfer order should be sustained and should not be unsettled.

4. We have heard Mr. Bhuyan, learned counsel for the applicant and Mr. Akhyay Kumar Misra, learned Additional Standing Counsel (Central) for the respondents. Mr. Bhuyan submitted that the applicant has worked in various places outside Orissa namely, Silcher, Guwahati, Aizawl for about 11 years and ultimately he was transferred to Bhubaneswar where he joined on 1st November, 1993. Only 5 months thereafter the applicant has been transferred i.e. on 28.2.1994. It was therefore, contended by Mr. Bhuyan that in such a situation the transfer order should be quashed. But on the other hand, Mr. Akhyay Kumar Misra submitted that the applicant is going on promotion to Nagpur and therefore if he foregoes promotion the Department has no interest to put him at Nagpur and in this connection Mr. Akhyay Kumar Misra drew our attention to the averments finding place in the counter at paragraph 2 which runs thus;

" The applicant had two options in the matter. He could either accept the decision of the department of entrusting current duty charge of higher post and posting him at Nagpur or represent against the order dt. 28.2.94. Apparently the applicant did not like his posting at Nagpur. However, he could have represented to the department which could have examined his representation under the rules xxx xx."

We have carefully perused the records. The applicant is not going on promotion to Nagpur. He is holding the charge of current duties in the same capacity as he was

serving at Bhubaneswar. Therefore, the contention of Mr. Akhyay Kumar Mishra that he was going on promotion is not correct.

As regards the contention of Mr. Akhyay Kumar Mishra that the applicant could have made representation to the higher authorities for reconsidering the matter does not weigh with us because from Annexure-7 we find that it has been ordered that he should immediately join at Nagpur and he should be immediately relieved from Bhubaneswar. In view of the immediate relieve order by the competent authority, there was no other alternative left for the applicant <sup>but</sup> ~~then~~ to approach the portals of the Court. In addition to the above, we find that while being transferred to Bhubaneswar the applicant had to forego Travelling allowance and Daily allowance because such transfer was on his own request. The Supreme Court has ruled that constant transfers of a particular Government employee should be avoided and it demoralises the particular officer. Our view gains support from a judgment reported in AIR 1986 SC 1955 ( B.Varadha Rao vrs. State of Karnataka and others). In the said judgment Their Lordships at paragraph 6 were pleased to observe as follows:

" One cannot but deprecate that frequent, unscheduled and unreasonable transfers can uproot a family, cause irreparable harm to a Government servant and drive him to desperation. It disrupts the education of his children and leads to numerous other complications and problems and results in hardship and demoralisation. It therefore follows that the policy of transfer should be reasonable and fair and should apply to everybody equally. xxx "

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At the cost of repetition, we would say that this particular officer was transferred to Bhubaneswar within a period of four months <sup>prior to this day</sup> and again he has been shifted to Nagpur without any reasonable cause. We do hereby quash the order of transfer contained in Annexure-7.

5. Thus, this application stands allowed leaving the parties to bear their own costs.

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 MEMBER (ADMINISTRATIVE)  
 23 JUN 94

.....  
 VICE-CHAIRMAN.  
 23.6.94

Central Administrative Tribunal,  
 Cuttack Bench, Cuttack.  
 June 23, 1994/Saranghi.