

Mg of A. R. Dora ①
V. Narasimha
CAT / J / II

(A)
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A./T.A./R.A.No. 129 1995

Madhu Behara Applicant (s)

Versus

Union of India Respondent (s)

| Sr. No. | Date | Order with Signature |
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| 1 | 28.2.95 1.3.95 | <p>REGISTER</p> <p><i>S</i> Registrar</p> <p>Heard Shri G.A.R.Dora, learned counsel for the applicant at great length. On an earlier occasion the applicant approached the Tribunal in O.A. 64/95 which was disposed of at the admission-stage with a direction that he shall submit a detailed representation to the Sr.Divisional Personnel Officer, S.E.Railway, Khurda Road, setting-forth his difficulties in moving on transfer from Khurda Road to Keonjhar-Jajpur Road, and that the Respondent 3 (the Sr.Divisional Personnel Officer) would dispose of the representation by a suitable order after taking into consideration the rules, administrative requirements and also the personal difficulties of the applicant. The applicant accordingly submitted a representation vide Annexure-A/5 on 31.1.1995. The same was examined and disposed of by the Sr.Divisional Personnel Officer vide Annexure-A/6 dated 9.2.1995. To that extent the action prescribed in the order on the ^{in the} earlier case provision ^{no} is complete, and the aspect</p> <p><i>Dr. O. P. Das</i> 28.2.95 28/2/95</p> <p>In this application of 19, the applicant has challenged the order of transfer.</p> <p><i>For Registrar</i></p> <p><i>CO</i></p> <p><i>28/2/95</i></p> |

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| ..1 | 28.2.95 1-3-95 | <p>of that case survives for reopening or scrutiny.</p> <p>It is nevertheless seen that in para-2, (Annexure 6 to the present application) the Divisional Personnel Officer observed as under:</p> <p>"The grounds of your wife's sickness is not tenable as there is no supporting medical document..."</p> <p>whereas the applicant in his representation dated 31.1.1995 (Annexure-5 to the application) makes the positive statement as under:</p> <p>"I am also enclosing herewith ... the xerox copies of the discharge certificates which were also annexed as Annexures 2 and 3 before the Hon'ble Tribunal for your kind consideration"</p> <p>It is thus apparent that either the applicant failed to enclose the medical certificates along with his representation, or if he did indeed enclose them, they were not put up by oversight to the said respondent, or they were misplaced after receipt from the applicant. The position is not clear on this point. What is clear is that, whatever the reason, the medical papers were not before the Divisional Personnel Officer when he considered the representation dated 31.1.1995 submitted by the applicant. To this extent it may be held that valid and adequate material (from the point of view of the applicant) was not available to the authority to take a comprehensive and judicious decision on the representation. In order to facilitate such view to be taken in the matter, it is hereby directed that the</p> |

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| ...1 | 1.3.95 28.2.95 | <p>Court cannot take upon itself the task of determining the suitability of a particular individual official for a particular vacancy, it would nevertheless be fair to examine if a low-paid employee, who has earned his promotion fairly late in his career, and who, moreover, complains of a number of personal difficulties, can be helped positively by acceding to his request. If the applicant is the senior of the two officials, and if the vacancy at Tapang arose earlier to the one at Neonjhar-Jajpur Road, the applicant's request merits consideration. A suitable decision may be taken and communicated to the applicant in the light of these observations, by the date stipulated above, until which the operation of Annexure-1 and 6 are stayed.</p> <p>Thus the application is disposed of.</p> <p>No costs.</p> <p><i>[Signature]</i> MEMBER (ADMINISTRATIVE)</p> | <p>Order NO. 1 dt. 28/2/95</p> <p>Copy of the order may be given to both the Counsels and copy may also be sent to all Respts. alongwith original application High Regd P.O.</p> <p>For attestation 2 Sign. Pl.</p> <p><i>[Signature]</i> 28/2/95</p> <p><i>[Signature]</i> 28.2.95 30 (g)</p> <p>Received copy of the order dt. 28.2.95 <i>[Signature]</i> Adv</p> |

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| ..1 | 28.2.95 | <p>applicant shall submit by Regd. Post, a further and final representation, together with copies of such of the medical-papers or certificates in his possession, which, in his opinion, establish the nature, seriousness, or the extent, of his wife's sickness. This shall be done by the applicant by 06.3.1995, positively. The representation may be examined, along with the supporting-documents, and a final decision be taken by 14.3.1995 by Respondent No.3, and the same be communicated to the applicant on or before 16.3.1995.</p> <p>Incidentally, the applicant is seen to be repeatedly stressing on the serious state of his wife's health. He states that it will not be possible for him to shift her to Keonjhar-Jajpur Road since she is in no position to move from her house and that there is also no one else to look after her. Secondly, between the applicant and Shri N.K. Paikaray, it is stated that the applicant is senior and therefore deserves consideration for a posting in a vacancy which arose earlier at Tapang. This needs scrutiny. Should it be found that it may after all be possible to accommodate the applicant (if he is senior of the two officials ^{and} closer to retirement ^{at} than Shri Paikaray) at Tapang or Khurda Road itself (where another vacancy is stated to exist), the same ought to be given a serious thought. While the authorities are perfectly at liberty to decide about posting of individuals in the available vacancies, and whereas this</p> | |