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Dr.Hrushikesh Panda	...	Applicant
Vrs.		
Union of India and others	...	Respondents

- 1) Whether it be referred to the Reporters or not? X
- 2) Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? X

A.K. Chatterjee
(A.K.CHATTERJEE)
VICE-CHAIRMAN
(Calcutta Bench)

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.260 OF 1995
Cuttack, this the 25th day of June, 1996

CORAM:

HONOURABLE SHRI JUSTICE A.K.CHATTERJEE, VICE-CHAIRMAN
(Calcutta Bench)

...
Dr.Hrushikesh Panda,
aged about 43 years,
son of T.N.Panda, at present
working as Programme Executive,
All India Radio,Cuttack,
District-Cuttack

... Applicant

By the Advocates

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M/s R.N.Nayak,
A.Deo,B.S.Tripathy,
P.Panda, D.K.Sahoo,
M.P.J.Roy & R.Rath.

-versus-

1. Union of India,represented by its Secretary,
Ministry of Information & Broadcasting,
New Delhi.

2. Director General,
All India Radio,
Akasvani Bhawan,
New Delhi-110 001.

3. Deputy Director (Administration),
Office of the Director General,
All India Radio,
Akasvani Bhawan,
New Delhi-110 001.

4. Station Director,
All India Radio, Cantonment Road,
Cuttack-753 001

...

Respondents.

By the Advocate

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Mr.U.B.Mohapatra,
Addl.C.G.Standing Counsel.

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O R D E R

K.CHATTERJEE, VICE-CHAIRMAN

The applicant, who was a Programme Executive in the Cuttack Station of All India Radio, has been transferred to Bhawanipatna by an order made on 8.4.1994 to quash which he had previously come to this Tribunal in O.A.No.216 of 1994 on several grounds including that it was made in mala fide exercise of power as one of his colleagues Shri S.C.Das who was in Cuttack for a very long time had been left undisturbed while the applicant with lesser stay had been transferred to Bhawanipatna which was a difficult Station categorised as 'C'. The said O.A. was disposed of on 24.2.1995 directing the applicant to submit a proper representation to the authorities setting out his problems and grievances within ten days and the respondents were directed to consider it and take a suitable decision in the matter after examining the service record and claims of the applicant and those of other colleagues at Cuttack in consonance with Clauses X, XI and specially XXV of the transfer policy. The applicant accordingly made a representation on 16.3.1995 which, however, did not find favour with the authorities and it was rejected by the Director General on 3.5.1995. The instant application has been filed as the applicant is aggrieved by such rejection and he has urged that the transfer order cannot be sustained because it was opposed to the transfer policy. He has also contended that the representation was rejected by an incompetent person.

2. The respondents opposed the application on the ground that as many as 250 posts of Programme Executive were abolished which included the post held by the applicant at Cuttack

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and as such the option available with the authorities was either to place him at the Surplus Cell or to post him at a place where such post was available. In these circumstances, the applicant had to be transferred to Bhawanipatna and his representation could not be accepted.

3. On hearing the learned counsels for both the parties and on perusal of the application together with the counter and other documents on the record, I am satisfied that the transfer of the applicant was necessitated because of the abolition of the post of Programme Executive held by him at Cuttack and if he was not transferred to Bhawanipatna to a similar post, he might well have been placed before the Surplus Cell. In such situation, even though the applicant may have some personal hardship in making the move, still there cannot be any interference by the Tribunal. The learned counsel for the applicant has stated that in the previous O.A. a direction was given to the authorities to examine the case of the applicant as well as one Shri S.C.Das who was impleaded as a respondent in the said O.A. and to decide who should be transferred to Bhawanipatna. The learned counsel for the applicant has, at the time of hearing of the application, produced a copy of an order whereby the said Shri S.C.Das, who is, however, not a party in the present application, has been transferred to Bhawanipatna and it has been stated that he has not yet moved to the transferred station. This, according to the learned counsel for the applicant, was just a skin saving device by the authorities who were

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asked to examine the case of the applicant as well as Shri S.C.Das. Now I am not satisfied that there could be any mala fide exercise of power at least in the matter of rejection of the representation made by the applicant because such representation was rejected not by any local authority but by the Director General of All India Radio who could not possibly be biased or in any way hostile towards the applicant. Thus the possibility of any mala fide in the matter of the rejection of the representation can be easily ruled out. Further, regarding the statement made by the learned counsel for the applicant at the time of hearing that Shri S.C.Das did not move out of Cuttack in spite of the transfer order, the learned counsel for the respondents has stated, though he had no opportunity to obtain instruction in this regard, that on a fresh representation made by him, some post might have been found for him at Cuttack where he might have been accommodated on cancellation of the order of his transfer to Bhawanipatna. At any rate, when it is found that the transfer of the applicant became inevitable due to abolition of post held by him, it cannot be said that it was prompted by any mala fide intention of the authorities. However, it appears that the applicant has since joined the transferred post at Bhawanipatna and the learned counsel for the applicant has stated that several comparable posts are now available at Cuttack. In this regard, the learned counsel for the respondents was unable to make any submission for want of proper instruction as the availability of comparable posts was given out by the learned counsel for the applicant only at the time of hearing.

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In this situation, an appropriate direction may, however, be given while disposing of the present application.

4. The application is rejected. However, the applicant may make a proper representation to the appropriate authorities to transfer him back to Cuttack and the same shall be considered by the authorities if any post to which the applicant may be posted has since become available.

Parties to bear their own costs.

A.K. Chatterjee
25.6.1986
(A.K.CHATTERJEE)
VICE-CHAIRMAN

A.Nayak, P.S.