

3

7

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No. 264 of 1995

Cuttack this the 28th day of July, 1995

Laxman Senapati

...

Applicant

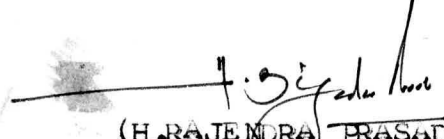
Versus

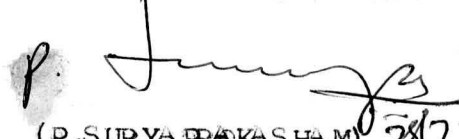
Union of India & Others ...

Respondents

(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)

  
(P. SURYA PRAKASHAM) 28/7  
MEMBER (JUDICIAL)

28 Jul 95

4

8

CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No. 264 of 1995

Cuttack this the 28th day of July, 1995

C O R A M:

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

AND

THE HONOURABLE MR. P. SURYA PRAKASHAM, MEMBER (JUDICIAL)

..

Shri Laxman Senapati,  
aged about 52 years,  
S/o. Late Kapila Senapati  
At: Sarbodaya Nagar  
PO: Puri, Dist: Puri

... Applicant

By the Advocate:

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

Versus

- 1.. Union of India represented by  
the General Manager, South Eastern  
Railway, Garden Reach, Calcutta
2. Chief Personnel Officer,  
South Eastern Railway, Garden  
Reach, Calcutta
3. Divisional Railway Manager,  
South Eastern Railway, Khurda  
Road, AT/PO: Jatni, Dist: Khurda
4. Additional Divisional Railway  
Manager, South Eastern Railway,  
Khurda Road, At/PO: Jatni,  
Dist: Khurda
5. Senior Divisional Personnel Officer,  
South Eastern Railway, Khurda Road,  
At/PO: Jatni, Dist: Khurda
6. Divisional Engineer, North (C)  
South Eastern Railway, Khurda Road,  
At/PO: Jatni, Dist: Khurda
7. Divisional Personnel Officer,  
South Eastern Railway, Khurda Road,  
At/PO: Jatni, Dist: Khurda

...

Respondents

By the Advocate:

M/s.B.Pal  
O.N.Ghosh  
S.K.Ojha

...

O R D E R

MR.P.SURYA PRAKASHAM, MEMBER (J): The applicant, who is working as a in the Railway Primary School, Puri, has challenged the order of transfer to Khurda under Annexure-4 on various grounds which are as follows :

i) The Respondent No.7<sup>m</sup> who has passed the order of transfer does not have any jurisdiction to pass the impugned order.

ii) The applicant is drawing more salary than the Headmaster of Khurda School, where he has been transferred in the same capacity to work under him, who happens to be his junior and therefore, the petitioner suffers from ignominy to work under a junior or in other words a senior should not be compelled to work under his junior.

iii) The applicant will be losing Rs.30/- which he is getting now for looking after the special work in the present school at Puri if the transfer to Khurda is sustained.

iv) The transfer has been effected due to the political pressure or pressure from extraneous source.

He challenges his transfer from all these above grounds.

2. The Respondents in their reply have submitted that the very order under which the transfer has been effected clearly shows that the order has been passed

  
/s/

with the approval of the competent authority as found in Annexure-A/4. The respondents further submitted that there is no extraneous pressure to transfer the applicant in this case, but only due to administrative exigencies the transfer has been effected. As regards the difference in pay, the applicant is getting more pay than the Headmaster of Khurda School is due to the fact that the applicant has been stagnating in the post for a long time and he is getting various stagnation benefits and as such he has been getting the present scale of pay of Rs.1640-2900/-. With regard to loss of Rs.30/- it is seen that the Special Allowance that is being paid for looking after the special work in the present school, viz. at Puri and once he is being transferred to another place, special pay goes automatically by rules and therefore the order is ~~invalid~~.

The Respondents submitted that under Annexure R/3, which is a letter written by the applicant to the Divisional railway Manager that since transfer has been effected against him ~~this~~ <sup>under R3</sup> dated 16.3.1995 under which he sought for a cancellation of the transfer and if the same could <sup>NOT</sup> be made convenient administratively, then at least time may be given upto the end of May, 1995. This request of the applicant has been accepted by the authorities since the transfer is in the middle of academic year. That in the meantime the applicant has approached the Tribunal on 19.5.1995 and obtained an order of ad interim

stay of the impugned transfer order for a period of 60 days.

The applicant has also filed a Contempt Petition No.58/95 for the non-compliance of the order passed by the Tribunal on 19.5.1995. During the course of hearing it has been suggested that both the cases may be taken up and in fact the C.P.58/95 was not in the list to-day. For the purpose of rendering justice in the case, the matter has been called from the Registry and has been taken up to-day <sup>By consent</sup> along with the Main Original Application 264/95.

The applicant has submitted that he is satisfied if the representation that he is going to make to the Divisional Railway Manager is being disposed of by him and he is willing to abide by the orders to be passed by the D.R.M. and in the same context he is also agreeable for the withdrawal of C.P.58/95. Therefore, we are of the view in this case that there is no need to pass any orders on the merits of the case, but we think that it is sufficient to give a direction to Respondent 3 to dispose of the representation that the applicant will make in this regard within 2nd August, 1995 and Respondent 3 is directed to dispose of the same within 15 days from the date of receipt of such representation. If the said representation is not disposed of within the time stipulated above by Respondent 3, then the applicant shall <sup>lose his right to</sup> make a representation to the Divisional

8/10/97

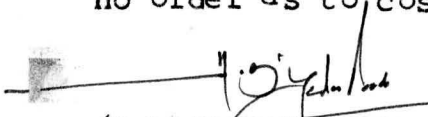
12

Railway Manager. With this observations and directions the original application is closed.

The Contempt Petition 58/95 is being dismissed as withdrawn.

In the interests of justice since the stay has been granted on 19.5.1995 and according to the petitioner the same is continuing, we <sup>directly</sup> find that the status quo will be maintained until the disposal of the representation by Respondent No.3.

Under the circumstances there will be no order as to costs.

  
(H. RAJENDRA PRASAD)  
MEMBER (ADMINISTRATIVE)

28 JUL 95

  
(P. SURYAPRAKASHAM) 28/7.  
MEMBER (JUDICIAL)

B.K.Sahoo//