

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No. 316 of 1995

Cuttack this the 17th day of August, 1995

Biswanath Biswal ... Applicant(s)

Versus

Union of India & Others ... Respondent(s)

(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)

17 Aug 95

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CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH:

Original Application No. 316 of 1995

Cuttack this the 17th day of August, 1995

C O R A M:

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

Biswanath Biswal,
S/o. Late Raghunath Biswal,
working as Fitter,
Motor Vehicle Workshop
Aviation Research Centre,
Charbatia, Cuttack

... Applicant

By the Advocate: M/s. C. A. Rao,
S. K. Behera

Versus

1. Union of India, represented by
its Secretary, Department of Cabinet
Affairs, Cabinet Secretariate,
New Delhi
2. Director,
Aviation Research Centre,
East Block-V
R.K. Puram
New Delhi-110 066
3. Deputy Director,
Aviation Research Centre,
Charbatia, Cuttack

By the Advocate: Mr. Ashok Mishra,
Sr. Standing Counsel (Central)

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O R D E R

MR. H. RAJENDRA PRASAD, MEMBER (ADMN): The applicant in this case is a Fitter in the Mechanical Wing of the Aviation Research Centre at Charbatia. He has been transferred from his present unit to A.R.C., Delhi. The posting-cum-transfer order contains an indication that he is to be adjusted against the post of a Mechanic on joining the new unit.

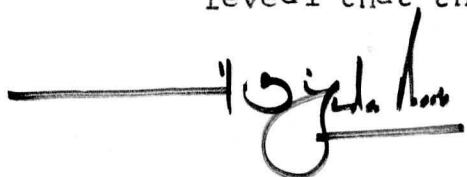
— 10 July 1995 —

2. The applicant prays for the quashing of the orders posting him to Delhi issued on 26th May, 1995, by Respondent No.2, and the orders of relief dated 30th May, 1995, issued by Respondent No.3, on the following grounds :

- i) Low-paid employees are not to be posted out to distant places;
- ii) Other officials (mechanics) are available to be posted to Delhi;
- iii) The education of his daughters will be impaired by this transfer;
- iv) The impugned posting shall result in his having to maintain two establishments, one here at Charbatia and the other at Delhi;
- v) There is no pecuniary benefit for him in this posting and that he has not given his consent to it;
- vi) He suffers from hypertension;
- vii) He would not object to a transfer next year;
- viii) The cost of living is high in Delhi and no residential accommodation is available there.

3. The applicant submitted a representation to the authorities against the impugned order on 7th June, 1995. And even though he does not mention it himself in the Original Application, it is revealed that a reply has been given and duly communicated to him and the position as regards his transfer has been adequately explained to the applicant in it.

4. The Respondents in their counter-affidavit reveal that the applicant -



- (a) has been cleared for promotion to the grade of Mechanic and shall be so promoted shortly as soon as certain formalities are gone through;
- (b) has not moved out of his present unit since his initial recruitment in 1967;
- (c) is being shifted partly due to the reason that some officials belonging to Orissa, and recruited here, have been working in other stations and they have been clamouring for a posting to Charbatia;
- (d) was never known to suffer from hypertension, and the two occasions during the past five years on which he applied for^{and} availed of medical leave was on account of a fracture and conjunctivitis.
- (e) had to be shifted on the basis of his station-seniority.

They add that the transfer is neither arbitrary nor due to any mala-fides and urge that the Original Application be dismissed.

5. (i) The applicant has been working in the unit for the past twenty-eight years and this is the only transfer he has been subjected to during his nearly three-decade service. It cannot be said, therefore, that he has been subjected to repeated or frequent transfers.

(2) It is revealed that the applicant is due for promotion to the next grade, - a benefit, incidentally, which he had been frequently seeking in the past. If he has not actually been promoted yet, prior to this shift, it is only because certain

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administrative measures and approvals remain to be tied-up. Thus, it may be safely assumed that his promotion is just a matter of time and that this posting is only by way of positioning him in an appropriate vacancy.

(3) None of the reasons advanced by the applicant is a valid ground for intervention on his behalf. Transfer, as is well-known, is an incident of service and none can claim the inadmissible privilege of continuing in a post or station for indefinitely long periods. The restriction on the transfer of Group D and other low-paid employees is a guide-line and cannot certainly be construed as an absolute or inflexible prohibition in deserving cases. Some of the other reasons given by the applicant are too far-fetched to merit comment.

(4) No reliance can be placed on the medical certificate issued by a private physician on the very day of filing this Original Application, specially viewed in the light of what has been disclosed by the respondents at Para 4 (d) above. The same needs to be ignored.

(5) It is noted in this connection that there are a number of employees who were recruited locally in Charbatia and have long been working away from Orissa. It is recognised that they are equally entitled to consideration for a posting back to Charbatia.

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(6) There is no trace of any malafides on the part of any of the respondents.

6. In the light of the position discussed in Para 5 above, I do not find any validity in any of the grounds urged in this application. The stay of the transfer granted on 22nd June, 1995, is hereby vacated and the application is dismissed as lacking in merit. No costs.


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

B.K.Sahoo//

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