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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

O.A. No. 408 of 1996

Cuttack, this the 31st day of July, 1996

Corum :

1. Hon'ble Mr. Justice A.K. Chatterjee, Vice-Chairman
2. Hon'ble Mr. N. Sahu, Administrative Member

Sri Gopinath Pradhan aged about 44 years, son of Late Anadi Charan Pradhan, working as Observer, Gr.II, Eastern Rivers Division, Plot No.655, Sahid Nagar, Bhubaneswar - 7. Applicant

By the Advocate

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Mr. Ganeswar Rath

Versus

1. Union of India, represented by its Chairman, Central Water Commission, Sewa Bhawan, R.K.Puram, New Delhi-110 066.
2. Superintending Engineer, Hydrological, Observation Circle, 25-R, Behind Moharshi College of Natural Law, P.O. Sahid Nagar, Bhubaneswar - 751007
3. Executive Engineer, Eastern Rivers Division, Central Water Commission, Plot No. A-13 & 14 Sahid Nagar, P.O. Vani Bihar, Bhubaneswar-4
4. Deputy Director, Office of Chief Engineer, Mahanadi and Eastern Rivers Central Water Commission, Bhubaneswar, Dist. Khurda. Respondents

By the Advocate

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Shri Akhaya Kumar Mishra

Heard on : 24.6.1996

O R D E R

A.K. Chatterjee, VC

The applicant working as Observer - Gr.II in the Eastern Rivers Division of Central Water Commission at Bhubaneswar, has been transferred to U.M. Sub-Division, CWC, Raipur under Mahanadi Division, Burla by the impugned order dated 7.6.96 issued under the signature of the Deputy Director in the office of the Chief Engineer, Mahanadi and Eastern Rivers of the said Commission. The transfer order is challenged on the ground that the Deputy Director was not competent to make it and further it

was against the transfer policy as contained in the circular dated 24.5.85 of the Department of Personnel & Training, Govt. of India. It was also said to have been made in malafide exercise of power as according to the applicant, it was designed to prevent him from proceeding with an application filed by him in this Tribunal being O.A. 481 of 1995, wherein he had challenged a selection process to consider his suitability to fill up a post of Research Assistant.

2. The respondents in their Counter contend that the transfer was made with prior approval of the Chief Engineer concerned and it was necessary in public interest in exigencies of service. Any malafide intention behind the transfer order was also denied.

3. The applicant has filed a rejoinder mostly repeating and reiterating the averments already made by him in the original application.

4. We have heard the Ld. Counsel for the parties and perused the records before us.

5. Regarding supposed incompetence of the authority making ^{the} transfer order, the Ld. Counsel for the respondents has produced before us, at the time of hearing, the relevant file, which unmistakably shows that the transfer order was issued with prior approval of the Chief Engineer, who was no doubt competent to transfer an employee like the applicant. Therefore, this ground taken by the applicant is without any merit and it fails.

6. The impugned transfer order was said to be opposed to the transfer policy, as according to it, Group 'C' and Group 'D' personals should not normally be transferred. The transfer policy has been reproduced in the application quoted from the judgment in O.A. 108/90. A perusal of this policy will reveal

that all the guidelines stated therein were subject to exigencies of public service and administrative requirements and therefore, in such circumstances, even Group 'C' and Group 'D' ~~pe~~ personnels can be transferred. According to the respondents, a Level-II Laboratory has recently been opened at Raipur, which had no experienced hand and as such the applicant, who has long experience of working in a Divisional Laboratory was transferred for the effective functioning of the newly opened Laboratory at Raipur. This contention has hardly been countenanced in the rejoinder. The Ld.Counsel for the applicant has, however, stated that he was just an ordinary Observer and his presence could not be reasonably expected to be conducive to effective functioning of the Laboratory at Raipur. Now, whether the applicant will be useful in effective functioning of the Laboratory is a matter for the administration to decide and the Tribunal will not interfere unless it is found to be perverse or arbitrary. There is nothing before us to show that the decision of the authority is vitiated by arbitrariness or perversity. Therefore, it can be said that the transfer of the applicant, which was part of a chain of transfer was made for administrative requirements and in public interest.

7. The applicant in his application did not challenge the transfer order on the ground that he was not the longest stayee at the station from where he has been transferred i.e. Bhubaneswar, but the respondents in their counter have taken upon themselves to say that he was one of the longest stayees. In the rejoinder filed by the applicant, this part of the respondents' case has been controverted and few employees were named, who were serving at Bhubaneswar for period longer than the applicant. However, as the administrative requirement is

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the paramount consideration for effecting a transfer, the applicant can be transferred even though he was not the longest stayee as it has already been held that his transfer is necessary for administrative requirements and in public interest i.e. for effective functioning of the newly opened Level-II Laboratory at Raipur.

8. The applicant contends that the transfer order was tainted with malafide intention as it was calculated to prevent him from proceeding with O.A. 481/95 filed by him against the concerned authorities. We see no substance in this contention because we are not satisfied that his absence from Bhubaneswar will prevent him from proceeding with that case. In the large majority of cases before this Tribunal, the applicants do not reside at or near the place of sitting of the Tribunal, which ^{do not} prevent them from prosecuting their cases.

9. The applicant has stated about certain personal problems such as education of his children which he will have to face if he is transferred. We appreciate that some personal or domestic problems may follow a transfer from one place to another, but in the facts and circumstances of this case, as interference by the Tribunal is not warranted, the applicant, who has a transfer liability, shall have to take care and manage such problems.

10. Along with the Counter, the respondents have filed a Misc. Application to vacate an interim order passed on 15.6.96 to the effect that the impugned order of transfer dt.7.6.96 would remain stayed so far as the applicant was concerned till 24.6.96. During hearing, we were told by the Lt. Additional Standing Counsel that the applicant had not yet been relieved. In view of our

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findings above, this order automatically will stand vacated.

11. The application is, therefore, dismissed. The interim order made on 15.6.96 stands vacated and the Misc. Application No.421 of 1996 is accordingly disposed of.

12. No order is made as to costs.

Naveen Sahu
(N. Sahu) 31/7/96
Member(A)

A.K. Chatterjee
(A.K. Chatterjee)
Vice-Chairman