

8

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 317 OF 1998.

Cuttack, this the 12th of January, 2000.

MANINDRANATH RAY.

....

APPLICANT.

VERSUS

UNION OF INDIA & ORS.

....

RESPONDENTS.

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not? *Yes.*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? *No.*

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
12.1.2000

9

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 317 OF 1998.

CUTTACK, this the 12th day of January, 2000.

CORAM:

THE HONOURABLE MR. SOMNATH SQM, VICE-CHAIRMAN

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MANINDRANATH RAY,
S/o. P.C. Ray,
Commercial Goods Supdt(I) of Khurda
Road Railway Division of S.E.Rly.,
(Under orders of transfer from
Cuttack Railway Station to Talcher
Railway Station), At. Plot No. 1913/
1914, near Chintamaniswar Temple
of Bhubaneswar Town, Dist. Khurda.
Applicant.

By legal practitioner : M/s. M. R. Mohanty, L. K. Mohanty,
Advocates.

-VRS.-

1. Senior Divisional Railway Manager (DRM),
of Khurda Road Railway Division of
S. E. Railway, having headquarters at
Khurda Road (SE Railway), PO: Jatni,
Dist. Khurda.

2. Divisional Commercial Manager of
Khurda Road Railway Division of
S. E. Railway, having headquarters at
Khurda Road, SE Railway, PO: Jatni,
Dist. Khurda.

3. Station Manager of Cuttack Railway Station
At/PO/Town, /Dist. Cuttack-3.

4. G. Narasimkulu (CGS-II promoted and
Posted as CGS-I, at Khurda Road Rly.
Station, At/PO. Khurda Road (Jatni),
Dist. Khurda.

5. K. C. Dhada (CGS-II promoted and posted
as CGS-I of Cuttack Rly Station,
At/PO/Town/Dist. Cuttack-2.

... RESPONDENTS.

By legal practitioner: Mr. R. C. Rath, Additional Standing
Counsel (Railways).

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O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for quashing the order dated 11.3.1998 transferring him from Cuttack to Talcher.

He has also prayed that Respondents 1 and 2 should be directed to re-arrange his posting appropriately.

2.

Applicant's case is that he is a Commercial Goods Superintendent -I in Khurda Road Railway Division and he came on transfer from Bhubaneswar Railway Station to Cuttack Railway Station in the year 1987. In 1995, he was transferred to Talcher Railway Station where he joined and continued for seven months. He represented for his transfer to Bhubaneswar Railway Station because of his personal difficulties and in consideration of his difficulties he was transferred to Cuttack Railway Station in 1996. Applicant has stated that he came to know that the Departmental Authorities are considering to promote some Commercial Goods Supdt. Grade-II to the post of Commercial Goods Supdt. Gr.I

and apprehending that in this process, he may be transferred, he filed a representation which is at Annexure-1 stating that if he is at all disturbed from Cuttack Railway Station, he may be transferred to Bhubaneswar. He has stated that by order dated 11.3.1998 in order to accommodate Respondents 5 and 6, he has been transferred to Talcher Railway Station and this is mala fide. He has also stated that Res. No. 5 was accommodated on promotion at Khurda Road Railway Station and Respondent No. 6 who was posted at Bhadrak Railway Station as Commercial Goods Supdt. Gr.II, has been posted, on promotion as Commercial Supdt. Gr.I Goods at Cuttack Railway Station. Instead of that, Res. No. 6 could have been posted on promotion at Talcher Railway Station. He has also stated that before passing that order, his representation has not been taken note of. He has stated that on 23.5.1998, he availed leave of absence for appearing at ACM Examination fixed on 24.5.1998. He returned from examination Centre after availing leave on 29.5.1998 to find out that he has been relieved on 27.5.1998 from his post at Cuttack Railway Station. Applicant has stated that as a duty bound officer, he joined at Talcher Railway Station

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on 29.5.1998. In the context of the above facts, he has come up with the prayer referred to earlier.

3. Respondents, in their counter, have opposed the prayer of applicant. They have stated that after carrying out the transfer order and joining at Talcher Railway Station, the Applicant has come up in this Original Application challenging his order of transfer. On the date of admission, the Tribunal in their order dated 1.7.1998 directed the applicant to file a representation before the Divisional Railway Manager mentioning his difficulties and seeking a transfer to Bhubaneswar or Khurda Road. Accordingly representation was filed and in pursuance of the direction of the Tribunal, the representation was considered and rejected in order dated 17.8.1998 (Annexure-R/1). The Respondents have stated that the transfer order has been done in normal course in exigencies of public service. They have also stated that the applicant has been relieved from his post and no mala fide is involved either in his transfer or his relief. On the above grounds, they have opposed the prayer of applicant.

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4. Respondents 4 and 5 were issued with notice but they did not appear or file counter.

5. I have heard Mr. B. Dash, learned counsel on behalf of Mr. M. R. Mohanty, learned counsel for the Applicant and Mr. R. C. Rath, learned Additional Standing Counsel appearing for the Departmental Respondents and have also perused the records.

6. Applicant admittedly is in a transferable post and has been continuing at Cuttack Railway Station from 1987 except for a gap of about seven months when he was posted at Talcher Railway Station. It has been stated by the learned counsel for the petitioner that in consideration of his personal difficulties he was brought back from Talcher to Cuttack in 1996 and again he has been transferred in 1998. It has been stated by the learned counsel for the petitioner that in order to accommodate the Respondents 6 at Cuttack the applicant has been transferred from the Cuttack Railway Station and therefore, the transfer order has been made mala fide.

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7. position of law is well settled that it is open for the Departmental Authorities to transfer an employee from his present station in order to accommodate another person and this by itself could not indicate that the transfer order of the applicant has been issued mala fide. In any case as the applicant has already obeyed the order of transfer and has joined at Talcher Railway Station on 29.5.1998, there is no case for quashing the order of transfer at Annexure-1. This prayer of the applicant is, therefore, held to be without any merit and is rejected.

8. It is submitted by learned counsel for the petitioner that he will be shortly completing two years at Talcher Railway Station. He has also personal difficulties in the sense that his old and ailing mother is living with him and for her medical treatment he is required to be posted at Cuttack or Bhubaneswar. In view of this, it has been submitted by learned counsel for the petitioner that the Departmental Respondents should be directed to consider transferring the applicant from Talcher to some other places in order

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to facilitate medical treatment of his mother. In consideration of the above, the applicant is directed to file a representation to the Divisional Railway Manager indicating his personal difficulties and seeking transfer to a place convenient to him within a period of 15(fifteen) days from the date of receipt of a copy of this order. The Divisional Railway Manager, SE Railway, Khurda Road, Respondent No.1 is directed to consider and dispose of the representation of the applicant taking into account the fact that the applicant is at the fag end of his service career having little more than two years to retire and also his personal difficulties, within a period of 60(sixty) days from the date of receipt of the representation.

9. In the result, with the above observations and directions, the Original Application is disposed of but in the circumstances without any order as to costs.

Somnath Som.
SOMNATH SOM
VICE - CHAIRMAN
12/1/2000

KNM/QM.