

11. ORDER DATED 15-03-2000.

In this Original application u/s.19 of the Administrative Tribunals Act, 1985, applicant has prayed for a direction to quash the order dated 8-7-1999, at Annexure-7 transferring the applicant from the post of U.D.C., Jawahar Navodaya Vidyalaya, Kolabnagar-Koraput to Jawahar Navodaya Vidyalaya, Waraseoni-Balaghat in the same capacity in public interest. He has also prayed for a direction to the Respondents to allow the applicant to continue at Kolabnagar-Koraput. By way of interim relief a prayer has been made to stay the operation of the order at Annexure-7. On the date of admission of the petition on 19.7.1999, the order at Annexure-7 was stayed till 23.7.1999 on which day it was noted that the applicant had already been relieved ^{16.7.1999} and it was noted that the order of stay of Annexure-7 dt. 19.7.99 has become infructuous. Learned counsel for the petitioner submits that the petitioner has already joined in his new place of posting at Balaghat. In this petition, the applicant has stated that he is suffering from Cancer and because of this on his representation he was transferred from Koraput to Munduli, at Cuttack. At Cuttack his health ~~was~~ again deteriorated and again on his representation he was transferred to Koraput. Because of the fact that the applicant is suffering from Cancer he has prayed for a direction to the Respondents to allow the applicant to continue at Koraput and also to cancel the order of transfer at Annexure-7. Respondents 2 to 4 in their counter have stated that the applicant is not suffering from Cancer. It has been stated that the applicant has been continuing at Koraput throughout his service career.

except a short spell at Cuttack where he had come on his own representation. They have stated that the applicant has been transferred in public interest by way of routine transfer. It is also stated that a place to which an employee is to be transferred has to be decided by the Departmental Authorities and the Tribunal should not interfere in the matter. On the above grounds, the Respondents have opposed the prayer of applicant.

We have heard Mr. P. K. Padhi, learned Additional Standing Counsel Mr. B. Dash and Mr. P. S. Das learned counsel for Respondents 2 to 4 and have also perused the records.

From the submission made by learned counsel for both sides it appears that applicant has already joined at Balaghat and therefore, the prayer for canceling the order of transfer at Annexure-7 has become infructuous as it has already been given effect to. Moreover, the applicant has been working at Koraput for about ten years except for a brief spell work at Cuttack and therefore, he is in any case due for such transfer. In view of this, the prayer for canceling Annexure-7 and for a direction to the Respondents to allow him to continue at Koraput are held to be without any merit and the same is rejected.

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We however, note that the applicant in this case has stated that he is suffering from Cancer. He has also been sanctioned medical advances for treatment. Respondents 2 to 4 have stated that the plea of the applicant that he is suffering from cancer is a eye wash and it would be established at the time of hearing of the case but at the time of

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hearing he was not able to bring home any material to prove that the applicant is not suffering from cancer. In any case ~~which~~ ^{the} can be easily established from the medical claims submitted before the Departmental authorities from time to time for his treatment. It is submitted by learned counsel for the petitioner that the applicant has already joined at Balaghat obeying the order of transfer and has made a representation to be transferred from Balaghat. We find from the record that this representation dated 16.7.1999 was filed before joining at Balaghat. The applicant, if he is so advised, may file a representation to the Respondents for his transfer from Balaghat. Respondents should consider the representation of applicant on merits and dispose of the same in accordance with rules taking into account the health condition of the applicant after ascertaining the fact that the applicant is really suffering from Cancer. Representation to be filed by the applicant should be disposed of by the Respondents within a period of 90 days from the date of receipt of the same, and communicate the result thereof to the applicant.

With the above observations and directions, the original Application is disposed of.
No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

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(SOMNATH SOM)
VICE-CHAIRMAN
15/7/2000

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