

5
CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 413 OF 1999
Cuttack this the 14th day of December, 1999

Smt. Champak Ballavi Das

Applicant(s)

-Versus-

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ?
2. Whether it be circulated to all the Benches of the ~~NA~~ Central Administrative Tribunal or not ?

14.12.99
(G. NARASIMHAM)
MEMBER (JUDICIAL)

Y

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 413 OF 1999
Cuttack this the 14th day of December, 1999

CORAM:

THE HON'BLE SHRI G. NARASIMHAM, MEMBER (JUDICIAL)

Smt. Champak Ballavi Das
aged about 57 years
W/o. Late Swarupa Jena
Qr. No. 35 A/l, Unit-3
Bhubaneswar-1 -
at present Lady Teacher
in Kendriya Vidyalaya Sangathan
Bhubaneswar-1, Dist: Khurda

...

Applicant

By the Advocates : Mr. D.R. Patnaik

-Versus-

1. Principal, Kendriya Vidyalaya No.1
At/Po; Bhubaneswar
Dist: Khurda
2. Asst. Commissioner
Kendriya Vidyalaya Sangathan
Bhubaneswar Region,
At/Po: Bhubaneswar
Dist: Khurda
3. Commissioner,
Kendriya Vidyalaya Sangathan
New Delhi

...

MR.G.NARASIMHAM, MEMBER(JUDICIAL): Applicant, a Lady Teacher of Kendriya Vidyalaya Sangathan, Bhubaneswar seeks to quash the order of transfer dated 9.8.1999(Annexure-1) transferring her to A.R.C., Charbatia on the ground of she being surplus in that Institution.

2. The case of the applicant is that she has just two more years to attain superannuation. On her being declared surplus she was given opportunity to exercise option to be posted at her place of choice. Accordingly she exercised her option to be posted either at Mancheswar or C.R.P. Kendriya Vidyalaya Sangathan, Bhubaneswar. She had submitted representation to Respondent No.2, viz., Assistant Commissioner of Sangathan, Bhubaneswar with copy to Commissioner of the Sangathan at Delhi (Res.3) indicating her difficulties about her ill health and so on. She is a widow and at this age and fag end of her career it is difficult on her part to join at Charbatia which is 45 kms. away from Bhubaneswar. In her representation she pointed out one Mrs.Chitra Kumari of Kendriya Vidyalaya, Bhubaneswar seeking her transfer and since that post would be vacant on her transfer, the applicant could be adjusted in that place.

3. Respondents in their counter filed on 1.10.1999 opposed the prayer for quashing the order of transfer on the ground that the grounds indicated did not legally justify quashing of that transfer order. Moreover, the applicant being a Teacher having the longest stay in Kendriya Vidyalaya Sangathan has been declared surplus.

Considering her age she was transferred to nearest Kendriya Vidyalaya at Charbatia where a vacancy exists. Request of Mrs. Chitra Kumari for transfer has not so far been considered at the Headquarters level and as such he is still continuing at Bhubaneswar.

4. We have heard Shri D.R. Patnaik, learned counsel for the applicant and Shri Ashok Mohanty, learned senior counsel representing the respondents. In course of hearing Shri Patnaik filed xerox copy of the order dated 28.10.1999 of Kendriya Vidyalaya No. I at Bhubaneswar relieving Mrs. Anita Acharya, P.R.T. to enable her to join as Headmistress on promotion at Kendriya Vidyalaya, Cuttack by 30.10.1999.

5. After going through the pleadings and hearing contentions advanced by the learned counsel of both sides and in view of the legal position as enunciated by the Apex Court now and then in the matter of interference with the order of transfer I am of the view that on the basis of the facts averred by the applicant, no case for quashing the transfer order is made out. Hence the prayer for quashing the order of transfer is disallowed.

6. However, during hearing Shri Patnaik, learned counsel for the applicant submitted that Mrs. Chitra Kumari has in the meanwhile been transferred to Delhi and similarly Mrs. Anita Acharya, another Teacher of Kendriya Vidyalaya, Bhubaneswar has since been transferred to Cuttack on promotion and has been relieved. Since these two vacancies have occurred in the meanwhile at Bhubaneswar, Shri Patnaik suggested that there would be no difficulty for the Department to adjust the applicant at Bhubaneswar. Shri Mohanty for the Department submitted

that he has no instruction over these two transfers. In case these two transfers have since been effected and there are two consequential vacancies at Bhubaneswar on this count, there should be no legal bar for the respondents to consider the case of the applicant to adjust her as against any of these vacancies.

The application, as per observation above is disposed of, but there shall be no order as to costs.

14.12.15
(G.NARASIMHAM)
MEMBER (JUDICIAL)