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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 184 OF 2000
Cuttack this the 30th day of Oct. /2000

31st.

Gourahari Rout

...

Applicant(s)

-versus-

Union of India & Others

...

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? 45
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? No

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

L. 31.10.2000
(G.NARASIMHAM)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.184 OF 2000
Cuttack this the 30th day of October/2000
31st

CORAM:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
THE HON'BLE SHRI G.NARASIMHAM, MEMBER (JUDICIAL)
...

Sri Goura Hari Rout, aged about 32 years,
Son of Late Uttam Charan Rout, Of - Endulapur
PO: Kusudi, PS: Rajnagar, Dist - Kendrapara

At present working as Drawing Teacher in
F.C.I., Talcher

...

By the Advocates

Applicant

M/s.P.C. Kar
J.Gupta
S.C.Mekap
T.Mohapatra

-VERSUS-

1. Kendriya Vidyalaya Sangathan represented by Joint Commissioner, Kendriya Vidyalaya Sangathan (KVS) 18, Institutional Area, Sahid Jeeat Singh Marg, New Delhi
2. Assistant Commissioner, Kendriya Vidyalaya Sangathan (KVS) Regional Office, H.P. 7, B.D.A. Locality, Laxmi Sagar, Bhubaneswar-6
3. Mr. Madhusmita Das, W/o. Kali Kinkar Mohanty Drawing Teacher, Kendriya Vidyalaya No.1, Bhubaneswar, At/PO - Bhubaneswar, Dist ; Khurda

...

By the Advocates

Respondents

Mr.Ashok Mohanty
(Res. 1 and 2)
Mr.B. Dash
(Respondent No.3)

O R D E R

MR.G.NARASIMHAM, MEMBER (JUDICIAL): Applicant, Goura Hari Rout, and Mrs.Madhusmita Das (Respondent No.3) are Drawing Teachers under the Kendriya Vidyalaya Sangathan. Order of Transfer of Respondent No.3 from Kendriya Vidyalaya Paradeep to Kendriya Vidyalaya Bhubaneswar is under challenge in this Application.

2. AS per Kendriya Vidyalaya Sangathan Notification dated 26.4.1999 (Annexure-1) inviting options for transfer, the applicant, serving at F.C.I., Talcher had applied for transfer

to Bhubaneswar on the ground that his wife Smt. Sadhana Mishra is an employee under the State Government of Orissa. He had give 1st preference to Bhubaneswar, next to Khurda and thereafter to Dhenkanal for his transfer. Respondent No.3 requested for her transfer on the ground that her husband is working in the Central Government Organisation at Bhubaneswar giving the choice of her places of transfer to Jatni, Bhubaneswar and Puri respectively. Another B.K.Mishra, serving at Khurda Road sought for transfer to Bhubaneswar on the ground of his illness. Earlier this B.K.Mishra approached this Tribunal in Original Application 575/99 for quashing the transfer order of Res. No.3 in that O.A. On contest this O.A. was dismissed on 3.1.2000. The following observations of the Tribunal in Para-9 of the judgment are relevant:

"Para-9 : ... We find from the revised priority list enclosed by Respondents that amongst the Drawing Teachers, name of Respondent No.3 is against Sl.No.1 and name of one Gourahari Rout is against Sl. No.2. As earlier noted, in this list, the name of Respondent No.3 has come under category 13. We also note that name of Gourahari Rout who comes under Sl. No.2 in the priority list is coming under category 14. It is because the Respondent No.3 has given a wrong statement that her husband is in Central Govt. service, her case has come up as priority No.1. As the Departmental authorities have rightly corrected the priority position of Applicant going by the category under which he rightly comes, it is proper that the Departmental authorities should re-determine the priority of Respondent No.3 and Gourahari Rout, whose name in the priority No.2. From the revised priority list, it does not appear, if the spouse of Gourahari Rout is in State Govt. or in autonomous body/PSU, like the husband of Respondent No.3. If both of them, Res. No.3 and Gourahari Rout come under the same category 14, then in between them priority position should be re-determined by feeding their cases to the Computer. In case this results in any change in the priority of Respondent No.3, then the Departmental Authorities should work out the revised priority list between Respondent No.3 and Gourahari Rout".

On 17.4.2000 this Application has been filed. The case of the applicant is that as per the guidelines, those who have not completed three years of service at a particular station are not eligible to apply for transfer and Respondent No.3, who joined at Paradeep in November/97, had not completed three years of service at Paradeep. The other ground is that though the husband of Respondent No.3, who was serving under the Profident Fund Organisation(Regional Office), Orissa, Bhubaneswar had been transferred from Bhubaneswar to Berhampur as per order dated 21.6.1999 and joined at Berhampur in July/99, which fact she had suppressed before issue of transfer order, being impugned in this case along with a prayer for his transfer from Talcher. After the options were given by the Teachers, the priority list prepared by the Department had not been circulated.

3. The Department in their counter opposing the prayer of the applicant state that as per the guidelines, the Teachers who have even completed one year of service at a particular station would be eligible to give options for their transfers. As per the priorities mentioned in the guidelines in regard to grounds 'spouse service' priority would be given in case of spouse is serving under a Central Govt.Undertaking in preference of spouse serving under a State Government. In fact after disposal of the O.A.575/99, the priority list of applicant Goura Hari Rout and Respondent No.3 Mrs.Madhusmita Dash was ^{was} fed into the Computer by assigning the correct code number, of the guidelines and even after ^{this} feeding information, the spouse of Mrs.Das's priority position remained unaltered.

4. Respondent No.3 in her counter submitted that as

per the guidelines since she had completed more than one year's of service at Paradeep, she gave option of Stations for a transfer on the ground of her husband serving at Bhubaneswar. Her husband was transferred from Regional Office Bhubaneswar to Sub-regional Office, Berhampur due to administrative exigency, just to meet the shortage of manpower in the newly created Sub-regional Office at Berhampur. In fact he has been retransferred to Bhubaneswar on 3.4.2000, which would indicate that his transfer to Berhampur was temporary and this would be evident from the letter of that Department under Annexure-R/3/1.

5. Rejoinder filed by the applicant is more or less reiteration of the grounds stated in the Original Application by highlighting the fact of suppression of transfer of Res.3's husband from Bhubaneswar to Berhampur.

6. We have heard Shri P.C.Kar, the learned counsel for the applicant, Shri Ashok Mohanty, the learned Special Counsel appearing for Kendriya Vidyalaya Sangathan (Res. 1 and 2) and Shri B.Dash, learned counsel appearing for Private Respondent No.3. Also perused the records.

7. Annexure-1, the guidelines, which is a notification dated 26.4.1999 containing the guidelines is clear that only those Teachers who would be completing ^{one year} their stay at a particular station as on 31.3.1999 would be eligible to apply. As Res. 3 completed more than one year's of service at Paradeep, she had every eligibility to apply for transfer in response to this notification under Annexure-1. Annexure-8 of the rejoinder is a xerox copy of the application for transfer on request made by Respondent No.3. This application is dated 20.5.1999, much prior to the transfer of her husband from Bhubaneswar to Berhampur.

Of course in the printed application she had described the ground of transfer as Code No.13, i.e., spouse in Central Government/Defence. Yet the fact remains that she had in her declaration at the bottom of the form clearly stated that her husband Shri K.K.Mohanty was serving as U.D.C. in the Office of the Regional Provident Fund Commissioner, Orissa, Bhubaneswar. Under the guidelines ground for spouse serving in Central Govt./Autonomous Body/P.S.U. relate to Code No.14.

As earlier stated, the fact remains that by time Respondent No.3 had applied for transfer, her husband was still serving at Bhubaneswar. Res. 3's counter is also clear that after joining at Berhampur in July/99, her husband was retransferred to Bhubaneswar in April/2000. This has not been controverted by the applicant.

The case of the Departmental respondents is that after the disposal of O.A.575/99 on 3.1.2000 by this Tribunal (Annexure-A), as per the observations made therein the case of the applicant and Res.No.3 were fed into the Computer. Code No.14, which is the only ground of transfer of Respondent No.3 relates to spouse in Central Govt./Autonomous Body/P.S.U., whereas Code No.15 relates to spouse in State Government/State Autonomous Body/P.S.U. The computer feeding revealed the priority position of Mrs. Das unaltered. This apart the applicant in his application also mentioned another ground, viz., to look after his old and ailing parents, which comes under the Code No.23, the priority position of which is much below the priorities under Code Nos. 14 and 15.

For the reasons discussed, we do not see any merit in this Application, which is accordingly dismissed, no order as to costs.

(SOMNATH SOM)
VICE-CHAIRMAN

(G.NARASIMHAM)
MEMBER (JUDICIAL)