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O.A.No.100/03

Or. dt. 17.12.03

Heard Shri B.Pujari, the learned counsel for the applicant and Shri .B. Dash, learned Addl. Standing Counsel appearing on behalf of the Respondents-Department and perused the materials available on record.

Being aggrieved by the order of transfer on promotion under Annexure-9 dated 6.2.2003, the applicant, in this Original Application under Section 19 of the A.T. Act, 1985, has approached this Tribunal for redressal of his grievance. Transfer being an incidence of service, it is not to be interfered with. But in the peculiar facts and circumstances, as has been disclosed from the pleadings of the rival parties, it appears that the applicant, as a punitive measure has faced the transfer; because a series of allegations were levelled against him leading to lodging FIR in Badmal Police Post on 29.1.2002. Since the applicant has faced the ~~impugned~~ transfer for the reason of series of allegations levelled against him (which amounts to punitive transfer) prima facie, the impugned order of transfer is not sustainable. But before passing any final order, one should be conscious that the matter relates to an Ordnance Factory, where absolute discipline is necessary.

Having heard the learned counsel of both the sides, this Original Application is disposed of with direction to Respondents to reconsider the matter (if necessary, after obtaining an undertaking from the applicant) in its proper perspective, in ~~re~~transferring the applicant to the Ordnance Factory at Badmal in the

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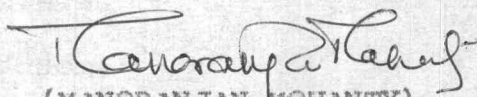
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District of Balangir (in the state of Orissa).

The applicant should make a representation to his authorities in this regard and no sooner a suitable vacancy is available at Ordnance Factory, Badmal, the applicant should be appropriately posted there.

This liberty is given to the parties, because the case of the Respondents-Department is that no suitable vacancy at present is available at Badmal to accommodate the applicant, whereas, the case of the applicant is that vacancy does exist there. Having regard to the facts and circumstances of the case, I leave this matter to the Respondents to give due consideration over the matter.

Before parting with this case, it is worth mentioning that the applicant is suffering from sickle cell anasmia, which requires him(the applicant) to be at his native place at Balangir should not be lost sight of by the Respondents.

With this I dispose of this O.A. leaving the parties to bear their own costs.


(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)

17/12/2003