

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 254 OF 2004
Cuttack this the 20th day of August 2004

Hrushikesh Sahee

...

Applicant(s)

- VERSUS -

Union of India & Ors.

...

Respondent(s)

FOR INSTRUCTIONS

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

M.R. Mohanty
(M.R. MOHANTY)
MEMBER (JUDICIAL)

B.N. Saha
(B.N. Saha)
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 254 OF 2004
Cuttack this the 20th day of August 2004

CORAM:

THE HON'BLE SHRI B.N. SOM, VICE-CHAIRMAN
AND
THE HON'BLE SHRI M.R. MOHANTY, MEMBER (JUDICIAL)
...

Hrushikesh Sahoo, aged about 57 years,
S/o. Late Laxmidhar Sahoo, Plot No. N/5, 143
I.R.C. Village-Jayadev Vihar, Bhubaneswar-751005
- at present working as Welfare Administrator,
under Welfare & Cess Commissioner, (L.W.O.)
Govt. of India, Ministry of Labour, 33, Ashok
Nagar, At/PO-Bhubaneswar, Dist-Khurda-751009

... Applicant

By the Advocates

M/s. D.R. Pattnaik
M.K. Khuntia

- VERSUS -

1. Union of India represented by its Secretary,
Labour, Govt. of India, Shram Sakti Bhawan,
New Delhi-1
2. Director General (Labour & Welfare) Ministry
of Labour, Govt. of India, Jailsalmer House,
Mansingh Road, New Delhi-110 011
3. Welfare & Cess Commissioner, Labour Welfare
Organisation, Govt. of India, Ministry of Labour,
33, Ashok Nagar, At/PO-Bhubaneswar, Dist-Khurda-751009
4. Sri B.B. Prusty (Welfare Administrator), Office
of Welfare Commissioner, Govt. of India, Ministry
of Labour, 33, Ashok Nagar, At/PO-Bhubaneswar-751009
District-Khurda

... Respondents

By the Advocates

Mr. A.K. Bose, SSC
(Res. 1 to 3)
Mr. T. Rath, Rs. 4

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ORDER

MR. B.N. SOM, VICE-CHAIRMAN: Heard the learned counsel of
both the sides and perused the materials available on record.
2. The grievance ventilated by the applicant in this O.A.
arises out of the order passed by the Respondents vide
Annexure-13 dated 4.6.2004, which has been issued in

supersession of the order of even No. dated 31.5.2004 issued by the Ministry of Labour, transferring the applicant again from Allahabad to Barbil with immediate effect from his present post. It is stated therein that as the transfer has been made in his own request, he would not be entitled to TA/DA, joining time etc. The applicant being aggrieved by this order, as he had already assumed the charge of the post in the Office of the Welfare Organisation at Bhubaneswar in the fore-noon of 4.6.2004, has approached this Tribunal in this Original Application under Section 19 of the A.T. Act, 1985, inter alia praying ^{for} stay operation of the order under Annexure-13 dated 4.6.2004. After hearing the matter, this Tribunal, as an ad interim measure, allowed the applicant to continue at Bhubaneswar as Welfare ^{Administrator} Inspector until further orders. Liberty was also given to the Respondents to move for vacation/variation of this ad interim order by filing Misc.Application/objection. The official Respondents, by filing counter have contested the application. They have submitted that the applicant is not entitled to any relief as prayed for in Para-8 of the O.A. and that he is not entitled to interim relief prayed for in Para-9 of the O.A. They have, in support of their contention, clarified that the order at Annexure-13 was issued to rectify a bona fide mistake in respect of the applicant's transfer to Bhubaneswar instead of Barbil, as the Director General, Labour Welfare, in the relevant file had passed order to transfer the applicant to Barbil and not to Bhubaneswar. To prove this submission, they have furnished a copy of the note-sheet of the relevant file containing the order passed by the Director General, Labour Welfare. Res. No.4

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has filed a counter as also a Misc. Application No. 499/04, seeking vacation of the ad interim order of stay by stating that the applicant has misled this Tribunal "by suppressing and wrongly stating various facts", and that "there is every possibility that the applicant may play mischief by influencing the officers at the ministry level." In his counter, Res. No. 4 has submitted that he is suffering from spondylosis and that his ^{attending} treating physician has advised him to ^{avoid} ~~continue~~ tours. He has submitted that his transfer from Bhubaneswar would be detrimental to his health and personal welfare.

3. We have considered the rival view points and have also gone through the records placed before us. The contention of Res. No. 4 in M.A. 499/04, in our considered view, is without merit as it contains a bundle of unsubstantiated ^{allegation} and therefore, the same is rejected.

4. The position ^a now emerges from the facts brought before us ^{is} that the applicant had been crying ^{hoarse} for last few years for his transfer from Allahabad to Bhubaneswar on the ground that the same is required to restore his health and mental stability of his wife. This has been certified by the attending physician. We find whereas he is seeking transfer to Bhubaneswar, his wife is being treated by a physician located at Burla. It is reported that Barbil is 350 kms. far from Burla, but the position is not clear whether medical facilities to take care of the health problem of applicant's wife is available at Barbil. On the other hand, Res. No. 4 is a young man having spondylosis problem, which is temporary in nature. However, the medical papers/prescriptions that the Res. No. 4 has

submitted along with his counter tell. a different story that he was for sometime having spondyllosis and it has also been the finding of the Doctors at Capital Hospital Bhubaneswar that he is having other ailments. We, therefore, feel that the comparative merit of the requests made by both the applicant and Res. No.4 with regard to ^{retention} at Bhubaneswar can be better sorted out by the Respondents-Department who are the administrative authorities, as the problems squarely fall in the arena of administration to objectively analyse the inter se merit. We, however, would like to observe that after going through the relevant note-sheet of the file in which the request for transfer from Allahabad to Bhubaneswar in respect of the applicant was considered, the Director General, Labour Welfare had ordered his transfer to Barbil. As the order of transfer is to Barbil, in case the D.G. (Labour Welfare) on reconsideration of the matter (as observed above) would like to stick on his earlier decision, it would not be correct to deny him TA/DA, joining time etc., because his request for transfer is to Bhubaneswar and not to Barbil.

5. Having regard to the facts and circumstances of the case as discussed above, we would direct Respondent No.2, i.e., Director General (Labour & Welfare), New Delhi, to consider the representations that the applicant and Res.No.4 should submit by 30.8.2004 to him for posting/retention at Bhubaneswar, keeping in view the problems ventilated by both the parties vis-a-vis the interest of administration and take a decision thereon within a period of 30 days

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from the date of receipt of representations(as directed above) and communicate the same within that period.

6. The interim order dated 9.6.2004 will remain operative till a decision as directed above is taken by Respondent No.2.

7. With the observations and directions as aforesaid, this Original Application is disposed of leaving the parties to bear their own costs.

M.R. Mohanty
(M.R. MOHANTY)
MEMBER(JUDICIAL)

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B.N. Som
(B.N. SOM)
VICE-CHAIRMAN