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O.A.NO.75/05

ORDER DATED 29.3.2006

In this case the applicant has prayed for quashing the order by virtue of which he has been transferred from Bhanuriabad to Mitrapur as G.D.S.M.D.

It is the case of the applicant that he was appointed as E.D.D.A.(II) at Bhanuriabad EDSO on 29.8.1983 and accordingly, he joined the post sometimes in 1983. Since the post office was down graded the applicant was asked to work as G.D.S. Pakcer at Mitrapur vide order dated 12.11.2003. On 20.10.2004, the ASPO, Balasore Division caused an inquiry on various allegations made against Respondent No.4 (Pulin Kumar Parida) and found those allegations substantiated, for which Res. No.4 was transferred to Mitrapur S.O. as G.D.S. Packer in public interest. On 23.11.2004, the Inspector of Post Office, Rajnilagiri Sub Division again upset the arrangement made vide office order dated 20.10.2004 and consequently, retransferred the applicant as G.D.S. Pakcer, Mitrapur S.O. in place of Pulin Kumar Parida (Res.4), who was brought back to Bhaunriabad. The applicant therefore, filed a representation stating that such transfer of Respondent No.4 to Bahnriabad and posting him (applicant) at Mitrapur was unreasonable, illegal and in the circumstances, the Respondent-authorities should recall the said transfer order by virtue of which he was forced to join at Mitrapur.

The Respondents have filed their reply. Their ^{sole} stand in the reply is that since the transfer order by which the applicant was asked to join at Bhaunriabad appeared to be irregular, therefore, such order was later on recalled and he was asked to work at Mitrapur.

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In this case the sole point that needs to be adjudicated is as to whether the transfer order passed against the applicant by virtue of which he has been asked to work at Mitrapur instead of Bhaunriabad is justified.

In this case the applicant was originally appointed at Bhaunriabad. On administrative grounds he was shifted to Mitrapur. On the ground of certain allegations leveled against Res. No.4, Respondent No.4 was transferred to Mitrapur and resultantly, the applicant was re-transferred to Bhaunriabad. What were the grounds which persuaded Res. Nos. 2 and 3 to transfer the applicant from Bhaunriabad to Mitrapur have not been spelt out in their counter-reply. How it was recorded as irregular has also not been stated in the counter-reply. Whether there was any justification to transfer the applicant again from Bhaunriabad to Mitrapur is not based on any tangible reasons. The learned counsel appearing for the applicant has submitted that the rules governing the service conditions of the E.D. employees normally do not prescribe for their transfer from one post office to another, save and except on administrative grounds. No administrative grounds have apparently been set out by the Respondent Nos. 2 and 3 whereby they have asked the applicant to join at Mitrapur, leaving his previous place of posting. In the circumstance, the transfer of the applicant from Bhaunriabad to Mitrapur is held to be arbitrary and whimsical and therefore, I quash the impugned order of transfer dated 23.11.2004 vide Annexure-A/3 and direct Respondent Nos. 2 and 3 to post the applicant at Bhaunriabad as before, within a period of 2 (two) months from the date of communication of this order.

on 29.02.06

In the result, the O.A. succeeds. No costs.

Benignath

CHAIRMAN

copies of order
handed over
to both the
counsel.

10/02/06

W.S. So.