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O.A.NO.274 OF 2005

ORDER DATED 28.3.2006

The applicant has challenged the legality, validity and propriety of the order of transfer vide Annexure-A/2 dated 7.6.2004 in so far as it relates to the applicant.

The applicant is working as Statistical Investigator, Gr.II under the Ministry of Statistics and Programme Implementation being posted at National Samble Survey Organization(Field Operation Division) Eastern Region, Cuttack. During the period of his service he has claimed to have rendered service in the hilly regions inside and outside the state. It seems that after the cadre restructuring the applicant was transferred from Cuttack to Bhawanipatna in 2004. Therefore, he has filed this O.A. praying to quash the aforesaid order of transfer.

The Respondents have filed their reply denying the averments made by the applicant. It is stated that a chain of transfer was effected immediately after restructuring of the cadre where the applicant was only transferred from Cuttack to Bhawanipatna, which is within the state. Once the transfer order is cancelled or kept in abeyance then the entire chain of transfer will be affected. The Respondents have urged that it is the prerogative of the employer to place an employee at a particular station. No bias or prejudice or mala fide has been averred against the Respondents. Therefore, neither the Court nor the Tribunal should entertain the prayer for staying the operation of the order of transfer issued by the Respondents.

Transfer and posting are within the discretion of the appointing authority. Neither the Court nor the Tribunal should interfere in the matter of transfer unless such transfer is an outcome of bias or mala fide. While joining the service the applicant has accepted all India transfer liability as a

condition of service and has agreed to work anywhere within the country wherever the employer shall post him. The Hon'ble Supreme Court on numerous occasions have deprecated the intervention by the Courts/Tribunals in the matter of transfer. However, it is submitted by the learned counsel Mr.Lenka that a representation has been filed by the applicant which is yet to be disposed of by the Respondent-authorities. Therefore, a direction be given to the Respondent No.4 to consider and dispose of the same in the light of the guidelines set out for transfer. I am not expressing any opinion with regard to the merits of the representation. But since the applicant has made such a prayer it is for the Respondent No.4 to take a decision in the matter of transfer in the light of the transfer policy/guidelines/instructions issued by the Respondent No.1 from time to time, within a period of three months from the date of communication of this order.

With the above observation and direction, this O.A. is disposed of. No costs.

In the light of the above discussion, the interim order granted earlier stands vacated.

CHAIRMAN