

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Order dt.02.04.2003.

None appears for the Applicant. However, on 05.03.2003, Mr.S.C.Puspak, learned counsel appearing for the Applicant, was heard and on that day the matter remained part-heard to be taken up today. Mr.R.C.Rath, learned Standing Counsel for the Railways, who was also heard on 05.03.2003, is present today and he was heard further.

2. While issuing notices in this case, on 24.05.2003, the following orders were passed by granting ad-interim stay :-

" This is a case, wherein it is alleged that the Applicant has faced successive transfers within a period of six months and having faced a transfer from Khurda Road to Talcher(under Annexure 3 dt.19.04.2002) the Applicant has approached this Tribunal, for redressal of his grievances. Before approaching this Tribunal, the Applicant has preferred a representation to the Senior Divisional (Signal & Telecom) Engineer of S.E.Railways, Khurda Road Respondent-3 vide Annexure-4 dt.25.04.2002 and it is the case of the Applicant that the said representation has not been responded yet. It is also the further case of the Applicant, as disclosed by his Advocate, that he has not been relieved from Khurda as yet in pursuance of the Transfer order under Annexure-3 dt.19.04.2002. It has been alleged in the O.A. that in order to accommodate Respondent No.4 at Khurda Road the Applicant has faced the transfer within a period of six months. In the said premises, the order of transfer under Annexure-3 dt.19.04.2002, in so far as it relates to Applicant, is stayed ad-interim and as a consequence, the Applicant should be allowed to work at Khurda Road until further orders. "

3. The Respondents have already filed counter in this Original Application and the Applicant has also filed a rejoinder thereto. That apart, the Respondents have also filed M.A.No.22/03 seeking vacation of the ad-interim stay order passed on 24.05.2002. *H*

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4. In para 4.7 of the Original Application the Applicant has disclosed his personal difficulties; which is extracted below :-

" That the Applicant humbly submits that he has two children who are reading in Class IX and VIII in a Kendriya Vidyalaya at Khurda Road. The Applicant is staying at Khurda Road with his family and old parents. At Talcher there is no Kendriya Vidyalaya and Kendriya Vidyalaya which was at Talcher has been closed and MCL authorities have handed over the educational stream to some other authorities and after hand over their educational pattern has been changed and it is not at par with the educational pattern of Kendriya Vidyalaya. So the order of transfer in the middest of academic session will hamper the study of the children of the Applicant.

That apart the wife of the Applicant is suffering from Asthma and spinal-curd problem which is chronic in nature. Talcher is a highly polluted area and the dusty atmosphere of Talcher will aggravate the health condition of his wife. Further the old and ailing father of the Applicant is bed ridden and no one is there to look after him. As the applicant is the only son of his parents. So the order of transfer will adversely affect the Applicant."

5. It is also the case of the Applicant that immediately after issuance of the impugned transfer order under Annexure-3 dt. 19.04.2002, the Applicant represented to the authorities under Annexure-4 dt. 25.04.2002. In para-9 of the counter, it has been disclosed that the said representation of the Applicant has received due consideration of the authorities but as to how considerations were given to the personal inconvenience of the Applicant has not been disclosed therein.

6. In the above said premises, the Respondents are directed to give due consideration to the grievance of the Applicant, by passing a speaking/reasoned order, by the end of April, 2003. While giving due,

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On dt. 2.4.03

copy of order
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and to the parties
copy of said order
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consideration to the grievances of the Applicant, the Respondents should look to the grievances raised by the Applicant in his Original Application and in the representation under Annexure-4 dt. 25.04.2002. The Respondents should also look into the grievance of the Applicant that he has been asked to face the impugned order of transfer, in order to accommodate the Respondent No.4 at Khurda Road.

7. Until a fresh look into the grievance of the Applicant is given by the Respondents, as observed in the foregoing paragraphs, the Applicant should be allowed to continue at Khurda Road.

8. With the aforesaid observations and directions, this Original Application is disposed-of. With the disposal of this Original Application, the M.A. No. 22/2003 (as filed by the Respondents) also stands disposed-of.

9. Send Copies to the parties.

(M. R. MOHANTY)

MEMBER (JUDICIAL)

02/04/2003