

9

CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 523 OF 2002
Cuttack, this the 2nd day of August, 2002

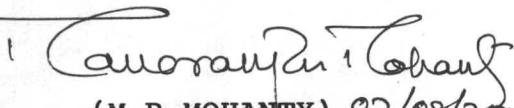
Shri Narayan Choudhury Applicant

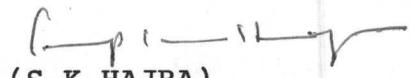
Vrs.

Union of India and others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? No
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No


(M.R.MOHANTY) 02/08/2002
MEMBER (JUDL.)


(S.K.HAJRA)
MEMBER (ADMN.)

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 523 OF 2002
Cuttack, this the 2nd day of August, 2002

CORAM:

HON'BLE MR.S.K.HAJRA, MEMBER(ADMINISTRATIVE)
AND
HON'BLE MR.M.R.MOHANTY, MEMBER(JUDICIAL)

Shri Narayan Choudhury, aged about 54 years, son of late Shyam Sundar Choudhury, at present Assistant Technical Officer (Communication), Air Traffic Control, Aviation Research Centre, Charbatia, Cuttack

..... **Applicant**

Advocates for applicant - M/s J.K.Rath
S.N.Rath
P.K.Rout
S.Misra
D.Rath

Vrs.

1. Union of India, represented through Cabinet Secretary, Department of Cabinet Affairs, New Delhi.
2. Director General, Security, Cabinet Secretariat, New Delhi.
3. Director, Aviation Research Centre-cum-Special Secretary, New Delhi.
4. Deputy Director (Admn.), Air Wing, C/o Office of the Director, Aviation Research Centre, New Delhi.
5. Deputy Director (Administration), Aviation Research Centre, Charbatia, Cuttack

.....Respondents

Advocate for respondents - Mr.A.K.Bose
Sr.CGSC

ORDER

MR. S. K. HAJRA, MEMBER (ADMN.)

The applicant filed this Original Application seeking quashing of his transfer from Aviation Research Centre (ARC), Charbatia to ARC, Sarswa, along with the post, by order dated 13.6.2002 (Annexure A/1).

2. Shri J.K.Rath, learned counsel for the applicant, advanced the following contentions. There are four aerodromes at Palam in New Delhi, Charbatia in Orissa, Sarswa in Uttar Pradesh, and Dumduma in Assam, in which Air Traffic Controls (ATC) are located. ATC at Charbatia comes under the Cabinet Secretariat whereas ATC at Sarswa comes under the Ministry of Defence. The order transferring the applicant to ARC, Sarswa, along with the post, amounts to transfer of the applicant from one cadre to another, which is not permissible. The applicant will have no opportunity to perform his duties at ARC, Sarswa, which would be detrimental to his career. The impugned transfer order results in changing the service conditions of the applicant adversely. The impugned order, which would result in harassment of the applicant, is arbitrary, illegal and impermissible.

3. The arguments advanced by Shri A.K.Bose, learned Senior Standing Counsel appearing for the respondents, are as follows. ARC, Sarswa, like three other stations, comes under Cabinet Secretariat. The applicant will work at ARC, Sarswa, in the same cadre to which he belongs at present. The impugned order is not a mala fide act nor a violation of any statutory rules. The applicant, being a public servant, is liable to be transferred in public interest in which the impugned order has been passed.

Swm

4. We heard both sides and perused the records. The applicant was transferred by the impugned order from ARC, Charbatia to ARC, Sarswa. The note dated 15.7.2002 on transfer states that the post of ATO is required at ARC, Sarswa, in the best interest of the Department, that the applicant is subject to all-India service liabilities, that his transfer is in public interest, and that he has not been discriminated in any way. The applicant has not produced any material to show that the transfer order would result in change of cadre to his detriment. The transfer was made in public interest, as stated in the note on move on transfer, dated 15.7.2002. There is no material to show that the transfer was vitiated by mala fides or extraneous consideration.

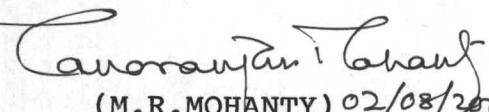
5. Hon'ble Supreme Court, in the case of Gujarat State Electricity Board v. A.R. Sungomal Poshani,
AIR 1989 SC 1433, held ^{was follows} that transfer from one place is generally a condition of service and the employee has no choice in the matter. Whenever a public servant is transferred, he must comply with the order. But if there be any genuine difficulty in proceeding on transfer, it is open to him to make representation to the competent authority for stay, modification or cancellation of the transfer order. If the order of transfer is not stayed, modified or cancelled, the concerned public servant must carry out the order of transfer. Furthermore, the Hon'ble Supreme Court, in the case of State of Madhya Pradesh and others v. Sri S.S. Kourav and others, JT 1995 (2) SC 498,

5

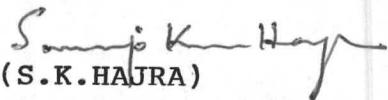
held as follows: "The Courts or Tribunals are not appellate forums to decide on transfers of officers on administrative grounds. The wheels of administration should be allowed to run smoothly and the Courts or Tribunals are not expected to indict the working of the administrative system by transferring the officers to proper places. It is for the administration to take appropriate decisions and such decisions shall stand unless they are vitiated either by mala fides or by extraneous consideration without any factual background foundation."

6. The records show that the applicant was transferred from ARC, Charbatia to ARC, Sarswa, on administrative grounds and in public interest. In view of the judgments of the Hon'ble Supreme Court cited above and since there is no material to show that the transfer order was vitiated by mala fides or by extraneous consideration, or constituted violation of any statutory rules, we see no reason for interfering with the impugned order dated 13.6.2002 (Annexure A/1) and giving ~~the~~ ^{the} relief to the applicant.

7. For the reasons given above, the Original Application is dismissed without any costs.


(M.R.MOHANTY) 02/08/2002

MEMBER (JUDL.)


(S.K.HAJRA)

MEMBER (ADMN.)