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O.A. No. 242 of 2008

Sri Rudranarayan Mohanty Applicant

Vs.

Union of India & Ors. Respondents

Order dated: 22-01-2010

CORAM:

Hon'ble Mr. Justice K. Thankappan, Member(J)

Hon'ble Mr. C.R. Mohapatra, Member (A)

Applicant, a Postal Assistant, has approached this Tribunal challenging the order of transfer, dated 02.05.2008.

2. When this O.A. came up for admission, this Tribunal, on hearing the Ld. Counsel for the parties, passed an interim order keeping in abeyance the order of transfer until further orders.

3. The main grounds urged in the O.A. are that the applicant has not completed his tenure in order to be transferred and his near relatives are under medical treatment. It is also stated that his children are studying in different standards and if during the mid academic session he is transferred, it would affect his family life. On the above reasons, this Tribunal had issued the interim order as stated above.



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4. The Respondent-Department have filed their counter opposing the prayer of the applicant. They have stated that the transfer of the applicant being in public interest and that there being no bar to transfer the applicant before completion of his tenure, the Tribunal should not interfere with the matter. They have submitted that the O.A. being devoid of merit is liable to be dismissed.

5. We have heard Mr. P.K.Padhi, Ld. Counsel for the applicant and Mr. S.Mishra, Ld. Additional Standing Counsel for the Respondents, perused the materials on records and considered the matter on merit.

6. Having regard to the grounds as mentioned above, it is an admitted fact that by the efflux of time, the academic year is already over. As regards the completion of tenure, we also find that it is about to be completed within two or three months. Be that as it may, in public interest there is no bar to transfer an incumbent before completion of tenure. Therefore, it has to be seen as to whether there exists a case of public interest in transferring the applicant before completion of his tenure. In this connection, it is to be noted that the Respondent-Department in their counter have submitted that it was due to negligence of the applicant, the




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Branch Post Master, Rudrapur, B.O., which is functioning under Chhatia Sub-Post Officer, defrauded in different S.B. Accounts to the tune of Rs. 2,98,793/- permanently and Rs. 10,851/- temporarily. The Respondent-Department have further submitted that although there was option with the Department to proceed against the applicant by placing him under suspension pending initiation of disciplinary proceeding, but the Department chose to transfer the applicant from Chhatia S.O. in public interest due to acute shortage of hands. This submission of the Respondent-Department has not been refuted by the applicant by filing any rejoinder. In this view of the matter, as indicated above that non-completion of tenure does not stand as a bar to transfer certain incumbents in public interest, it would be unsafe for this Tribunal to intercede in the matter of transfer as in the instant case.

7. In the result, the O.A. is dismissed. The interim order of stay stands vacated. No costs.


MEMBER (A)


MEMBER (J)

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