

O.A.No. 111/09

ORDER DATED 25th MARCH, 2009

Coram:

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

The applicant, presently working as Nursing Sister, at Health Unit, East Coast Railway, Waltiar Division, Vizianagaram (Andhra Pradesh) under the administrative control of Respondent No.1, the General Manager, East Coast Railway, Bhubaneswar, has filed this Original Application, aggrieved by the transfer orders dated 26.02.09 (Annexure-A/1 and dated 06.03.09 (Annexure-A/2) respectively, with the following prayers:-

- “ (a) To pass appropriate orders quashing the order of transfer dated 26.02.2009 in Annexure-A/1.
- (b) To pass appropriate orders directing the Respondents to allow the applicant to continue as Nursing Sister in Health Unit at Vizianagaram.
- (c) To pass such further order/orders as may be deemed just and proper in the facts and circumstances of the case and allow this O.A. with cost.”

2. The grounds for such a relief are that her two little children are reading in Class-V & VI respectively at Vizianagaram and if she is transferred at the middle of the academic session, it will adversely affect the educational career of her children. It is stated that even though her husband is also residing with her as a State Government employee under the Excise Superintendent, Vizianagaram, he is not be able to take care of the children. Further, it is urged that the transfer order

now made itself is beyond the guidelines and the rules regarding transfer and posting. Some other grounds are also urged, such as, General Secretary and Asst. General Secretary of the East Coast Railway Shramik Union have requested the authorities to consider the case of the applicant and to cancel the order of transfer or to keep the same in abeyance at least for a period of 3 (three) months.

3. Before considering the grounds urged in the O.A. the question now raised is regarding jurisdiction of this Bench to deal with the O.A. Admittedly, as per Rule -6 of the Central Administrative Tribunal (Procedure) Rules 1987, "An application shall ordinarily be filed by an applicant with the Registrar of the Bench within whose jurisdiction - (i) the applicant is posted for the time being or (ii) the cause of action, wholly or in part, has arisen." In the above conditions, this Tribunal feels that even though the applicant has made out a case, this Tribunal lacks jurisdiction to consider the same. However, this Tribunal having regard to the grounds urged in the O.A. is of the opinion that, it is only proper to direct the applicant to withdraw the present O.A. and file the same before the the Tribunal within which jurisdiction she is now posted or where cause of action has arisen.

4. Heard Mr. B.S. Tripathy, Ld. Counsel for the applicant and Mr. S.K. Ojha, Ld. Standing Counsel for the Respondents. Mr. Tripathy submitted that if the Tribunal did not entertain the O.A. on the ground of jurisdiction, then the applicant would sustain irreparable loss. I have considered the

submission made by Mr. Tripathy, and of the view that since Respondent No 4 is the competent authority, in the fitness of things it would be proper if Annexures-A/1 and A/2 are kept in abeyance for a period of 07 days from today leaving liberty to the applicant to move the Tribunal having jurisdiction in the matter. Ordered accordingly.

5. With the above observation and direction, this O.A is allowed to be withdrawn.

6. The applicant may send the operative portion of this order by Telegram to Respondent No.4.

Lakshman

MEMBER (J)