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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No. 671 of 2010
Cuttack, this the 2nd November, 2010

Bhabani Kanta Routray Applicant
Versus
Union of India & Ors. Respondents

C O R A M
THE HON'BLE MR.C.R.MOHAPATRA, MEMBER(ADMN.)

O R D E R

Heard Mr G.Rath, Learned Senior Counsel appearing for the Applicant and Mr. L.Jena, Learned Additional Standing Counsel for the Union of India, appearing on notice, having received copy of the OA in advance, for the Respondents and perused the materials placed on record.

2. It appears from the record that the Applicant is an Officer Surveyor in the Survey of India. He having faced the order of transfer from Bhubaneswar to Gujurat Daman & Deu GDC, Gandhinagar vide order under Annexure-1 dated September, 2010 requested his authority through representation that as his mother and wife are suffering from various ailments, the order of his order of transfer to Gujurat Daman & Deu GDC, Gandhinagar may be modified, posting him in any of the places against the existing vacancies either at Hyderabad, Visakhapatnam or Raipur where with his resource he will manage his family without making any compromise with his official work. Alleging that without giving any consideration to such request of the applicant the Respondents rejected the grievance of the applicant in an unreasoned order, he has approached this Tribunal in the present OA stating the order of transfer is bad in law and, therefore is liable to be set aside and by way of interim order as he is not relieved direction be issued not to relieve the applicant pending final decision on this OA.

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3. This was vehemently opposed by Learned Additional Standing Counsel appearing for the Respondents. According to him as the transfer order of the applicant is in public interest no interference is called for. In this connection he has also quoted various decisions of the Hon'ble Apex Court, High Court as also of this Tribunal. Accordingly, the Respondents' counsel prayed for dismissal of this OA.

4. Considered the submissions made by Learned Counsel for both sides. The rejection order dated 28th October, 2010 does not show that the Respondents took into consideration the specific point raised by the Applicant that in view of the illness of his mother and wife his order of transfer to Gujarat Daman & Deu GDC, Gandhinagar may be modified posting him in any of the places against the existing vacancies either at Hyderabad, Visakhapatnam or Raipur where with his resource he will manage his family without making any compromise with his official work. Similar case came up for consideration in OA No. O.A.No. 669 of 2010 filed by Biswanath Mohapatra, one of the Officer Surveyors of the office of the Respondent No.3 having faced transfer to Jammu has approached this Tribunal. Considering the submissions made therein this Tribunal in order dated 1st November, 2010 disposed of the matter. Relevant portion of the order reads as under:

“4. In the aforesaid circumstances, I do not intend to interfere in the order of transfer at Annexure-A/1. But for the discussions made above, I quash the order of rejection of representation under Annexure-A/5 to the extent for giving consideration to the request of the applicant for his posting at one of the alternative places mentioned in his representation if there is no impediment for the same. The reconsideration to the extent stated above should be given by the Respondents within a period of fifteen days hence and communicate the result thereof in a reasoned order to the applicant. Till such time status quo of the applicant as on the date shall be maintained.”

5. In view of the facts narrated above and the order passed by this Tribunal in OA No. 669 of 2010, I do not intend to interfere in the present

order of transfer of Applicant at Annexure-A/1. But for the discussions made above, I quash the order of rejection of representation under Annexure-A/5 to the extent of giving consideration to the request of the applicant for his posting at one of the alternative places mentioned in his representation if there is no impediment for the same. The reconsideration to the extent stated above should be given by the Respondents within a period of fifteen days hence and the result thereof communicated in a reasoned order to the applicant. Till such time status quo of the applicant as on the date shall be maintained.

6. In the result, this OA stands disposed of at this admission stage.

7. Send copies of this order along with OA to the Respondent No.1 at the cost of the applicant who shall deposit the postal requisite required for this purpose in course of the day. Free copies of this order be given to Learned Counsel for both sides.


(C.R. Mohapatra)
Member (Admn.)