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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No. 674 of 2010
Cuttack, this the 2nd November, 2010

S.K.Panda 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.S.Mohanty, Learned Counsel for the Applicant and Mr.H.K.Tripathy, Learned Counsel appearing for the Respondents having received copy of the OA in advance for and on behalf of the Respondents and perused the materials placed on record.

2. The Applicant is a Work Experience Teacher of Kendriya Vidyalaya, Sambalpur. In this OA he challenges the order of transfer under Annexure-3 dated 12/14-10-2010 posting him to Surda branding the same to be *mala fide* exercise of power as also being bad in law for the same being made during current mid academic session. In support of his stand that the order of transfer is *mala fide* exercise of power, it is the contention of the Applicant's counsel that the Applicant was under suspension and on revocation of his order of transfer he was posted to Patratu. He challenged such order of transfer in OA No. 386 of 2010. This Tribunal, in order dated 27.7.2010 quashed the transfer order of the applicant and directed for his posting where his lien exists i.e. KV. Sambalpur. Thereafter the applicant was posted to KV Sambalpur on 13.08.2010. In the disciplinary proceedings initiated against him he was imposed with the punishment of withholding of two increments for a period of two years by order dated 07.10.2010. After five days of the order of punishment, he was transferred to KV Surda which is

500 KMs away from Sambalpur. Further contention of the Applicant's counsel was that the second daughter of the applicant is studying in Class IX at KV Sambalpur and, therefore, in case the applicant is transferred from his present place of posting, there will be change of the school of his daughter which will affect her study as it is not known about the extent of teaching progress made in the school where she will take her admission at Suruda. Although the applicant in his representation submitted under Annexure-4 taken the mid academic transfer as one of the grounds till date no decision has been communicated to him and meanwhile he is likely to be relieved. In the circumstances, he has approached this Tribunal in the present Original Application filed u/s.19 of the A.T. Act, 1985 seeking to quash his order of transfer under Annexure-3 and direct the Respondents not to relieve him from his present place of posting i.e. K.V.Sambalpur. By way of interim relief he has prayed to stay the order of transfer.

3. This was strongly opposed by Mr. Tripathy, Learned Counsel appearing for the Respondents/KVS. 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 various submissions made by the parties and perused the materials placed on record. None of the grounds urged by Learned Counsel for the Applicant in support of his plea of mala fide behind the order of transfer has any substance. However, I find some force in the second ground of his challenge that the order of transfer being made during mid academic session, in case the same is given effect to, it will have adverse impact on the study of his daughter and after the current academic session is

over the applicant is bound to obey the order of transfer which was not resisted by any of the Counsel appearing for the respective parties.

5. In this view of the matter, there is no necessity to admit or issue notice to the Respondents and accordingly, this Original Application is disposed of at this admission stage with direction to the Respondents to keep the present order of transfer under Annexure-3 in abeyance till the current academic session is over. As it appears from the order of transfer under Annexure-3 none is posted in place of the applicant. Therefore, in case the applicant has been relieved meanwhile from his post, he shall be deemed to be continuing in his post at KV, Sambalpur.

6. With the aforesaid observation and direction this OA stands disposed of.

7. Copy of this order along with OA be sent to Respondent No.2 for compliance.


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