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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.795 OF 2010

Cuttack this the 04th day of April, 2011

CORAM:

HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER
AND
HON'BLE SHRI A.K.PATNAIK, JUDICIAL MEMBER

...
Dr.Usakanta Nanda, aged about 61 years, S.o. Sarat Chandra Nanda of Chhatia, Dist-
Jajpur, presently serving as Principal, Regional Institute of Education, Bhubaneswar
...Applicant

By the Advocates:M/s.J.Sengupta, D.K.Panda, G.Sinha & A.Mishra

-VERSUS-

1. Union of India represented through its Secretary, Ministry of Human Resources Development, department of Secondary Education and Literacy, Sastri Bhavan, New Delhi
2. National Council of Educational Research & Training represented through its Secretary, Sri Aurobindo Marg, New Delhi-16
3. Prof.S.C.Panda, Professor, Regional Institute of Education, Bhubaneswar (in charge Principal)-751 022

...Respondents

By the Advocates: Mr.A.Kanungo

ORDER

HON'BLE SHRI A.K.PATNAIK, JUDICIAL MEMBER:

1. In this Original Application under Section 19 of the Administrative Tribunals Act, 1985, the applicant, presently serving as Principal, Regional Institute of Education, Bhubaneswar has sought for the following relief:

“...to quash the order dated 06.12.10(Annexure-A/5) and direct the respondents to allow the applicant to continue as the Principal of the Regional Institute of Education, Bhubaneswar”.

2. The grievance of the applicant is that while he is the senior most Professor in the Institute, the manner in which he has been relieved of his duties as Principal smacks of mala fide. According to him, without complying with the principles of natural

justice, the Respondent-Institute should not have issued order reverting him from the post of Principal to Professor and as such, the impugned order at Annexure-A/5 suffers from violation of the principles of natural justice. The applicant has submitted that by this action of the Respondent-Institute, a senior will work under his junior, which is not the principle followed in the NCERT.

3. Respondent-Institute have filed their counter. The main thrust of the counter is that the posts of Professor and Principal are inter-transferable and the vacancy in one can be filled by the other and vice versa. According to them, it was due to administrative decision, the applicant was relieved of his duties as Principal to work as Professor.

4. Applicant has filed a rejoinder, which contains more or less the same plea as raised in the O.A.

5. We have heard Shri J.Sengupta, learned counsel for the applicant and Shri A.Kanungo, learned counsel appearing on behalf of the Respondent-Institute and perused the materials on record.

6. It reveals upon perusal of the records that vide Annexure-A/2 dated 2/4.3.2009 the applicant had been designated as Principal of the Regional Institute of Education, Bhubaneswar. In this context, it is to be noted that the orders issued vide Annexure-A/5 relieving the applicant of his duties as Principal, per se, is not an order of reversion, as the applicant had not been promoted to the post of Principal at any point of time nor had he submitted any document in this regard.

7. As regards compliance of the principle of natural justice, we would say that in view of settled position of law enunciated by the Hon'ble Apex Court from time to time, without complying with the principles of natural justice, no order adversely affecting the service conditions of an employee should be passed. In other words,

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what we mean to say is that before such an order adversely affecting his/her interest could be issued, the principle of natural justice demands that he/she should be asked to show cause on the said proposed action to be taken. The applicant has not submitted any document showing that by the issuance of the impugned order at Annexure-A/5 directing Respondent No.4 to remain in charge of the post of Principal his service conditions have adversely been affected. Viewed from this, in the present state of affairs, no show cause notice complying with the principles of natural justice was required to be issued to the applicant as, evidently, none of his service conditions has been adversely affected.

In so far as contention of the applicant that by the operation of Annexure-A/5 his junior will only act as Principal until further orders has hardly any force warranting intervention of this Tribunal, inasmuch as both the posts of Professor and Principal are inter-transferable and the vacancy in one can be filled by the other and vice versa. In this view of the matter, we are of the considered view that the administration is within its right to induct any Professor as Principal who is considered more deserving. Accordingly, we hold that applicant has no right in this respect.

However, the above order shall not stand in the way of the Respondents to give consideration to the representation, if any, submitted by the applicant seeking his posting as Principal in any other place.

8. For the reasons aforesaid, we hold that the applicant has not been able to make out a case for the relief sought for. In the circumstances, the O.A. is dismissed. No costs.


(C.R.MOHAPATRA)
ADMINISTRATIVE MEMBER

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(A.K.PATNAIK)
JUDICIAL MEMBER