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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No. 14 of 2011

Cuttack, this the 18th day of January, 2011

Akur Swain Applicant

-vs-

Union of India & Others Respondents

C O R A M:

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

A N D

THE HON'BLE MR.A.K.PATNAIK, MEMBER (J)

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Shri Akur Swain a Senior Section Engineer of the East Coast Railway presently posted at Cuttack having faced the order of transfer under Annexure-A/1 dated 23.12.2010 to RHMA as in charge of the Depot i.e. SSE/OHE/RHMA sought cancellation of his transfer through representation under Annexure-A/7 dated 05-01-2011 on various grounds including the ground of disturbance/dislocation of the education of his daughter who is prosecuting her study in Class VIII in KV, Cuttack as also treatment of his son who is under treatment at SCB Medical College and Hospital Cuttack for his suffering from cerebral palsy. Apprehending his relieve before any consideration is given to such request of the applicant he has

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approached this Tribunal in the present OA seeking to quash the order of transfer under Annexure-A/1 dated 23.12.2010.

2. Heard Mr.Chand Learned Counsel for the Applicant and Mr.S.K.Ojha, Learned Standing Counsel for the Railway appearing on notice for the Respondents and perused the materials placed on record. Mr.Ojha, Learned Standing Counsel for the Respondents stoutly opposed any kind of relief being granted to the Applicant and has prayed for dismissal of this OA. But we see lot of force and justification in the submission of Learned Counsel for the Applicant, especially on the submission that transfer during mid academic session is bad in law as held by Hon'ble Apex Court. In the above premises the transfer order of the applicant needs to be kept in abeyance till the end of the current academic session but we express no opinion on the same as the representation submitted by the Applicant is pending consideration before the Respondent No.2 and we are sure the Respondent No.2 will take into consideration this aspect of the matter and defer the transfer of the applicant till the end of the present academic session, if he does not agree to cancel the order of transfer of the applicant while considering the representation submitted by the applicant


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under Annexure-A/7. Accordingly, Respondent No.2 is hereby directed to take a decision on the pending representation and communicate the result thereof to the Applicant and till such time the order of transfer under Annexure-A/1 in so far as the Applicant is concerned shall be kept in abeyance and the Applicant shall not be relieved from his post.

3. With the aforesaid observation and direction this OA is disposed of at this admission stage. No costs.

4. Send copies of this order along with OA to the Respondent No.2 for compliance and free copies of this order be given to Learned Counsel for both sides.


(A.K.PATNAIK)
MEMBER (JUDL)


(C.R.MOHAPATRA)
MEMBER (ADMN.)