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O.A. No. 173 of 2011

Biranchi Narayan Dash.....Applicant
Vs
Union of India & Ors.....Respondents

Order dated: 29.03.2011

CORAM:

Hon'ble Shri C.R.Mohapatra, Member (Admn.)
&
Hon'ble Shri A.K.Patnaik, Member (Judl.)

Heard Sri B. Panda, Ld. Counsel for the applicant and Mr. U.B.Mohapatra, Ld. Sr. Standing Counsel appearing for the Respondents on notice, on whom a copy of this O.A. has already been served.

2. The contention of the applicant is that in pursuance of the letter F.No.CCIT/Estt./I-03/2010-11/16082-133 dated 10.12.2010 at Annexure-A/3 calling for the option from the officers belonging to the Orissa Region, the applicant submitted his option vide Annexure-A/4 wherein he has indicated three places, i.e. Bhubaneswar (CCA Orissa), Kolkata (CCA WB) and Hyderabad (CCA AP).

3. It appears that the Respondent No.2, i.e. Central Board of Direct Taxes, who is the authority to consider the options as called above, have not given adequate

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consideration to the request of the applicant and instead of giving any reason as to why it is not feasible to accede to the request of the applicant, the transfer order has been issued vide Annexure-A/1 of this O.A. on 24.03.2011 transferring the applicant from Bhubaneswar (CCA Orissa) to Chennai (CCA TN).

4. Sri Panda, Ld. Counsel for the applicant further submits that non-consideration of the option is a violation of their own guidelines and that against the order of transfer the applicant is going to submit his representation at the earliest. Since, paragraph 5 of the order of transfer at Annexure-A/1 stipulates that all officers mentioned in the above list should be relieved before 10.04.2011 positively, he submits that the applicant may be allowed to remain here at least till disposal of his representation.

5. Mr. Mohapatra, Ld. Sr. Standing Counsel submits that the applicant has still not been relieved and no representation so far has been made by him and in case he makes such representation, it is for the competent authority to take a decision on the same.

6. Having considered the submissions made by the parties, we are of the opinion that since it is a question of

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transfer of a Group-A officer having all India transfer liability, at this stage, we are not able to go into the merits of the case particularly when the applicant himself has stated that he has not made any submission before his authority as required under the extant instructions and as per the judgment of the Hon'ble Apex Court. We are of the opinion that, at this stage, ends of justice would be made if the Respondent No.2 is directed to consider the representation, if made by the applicant, and pass a reasoned order before relieving the applicant taking into consideration the option exercised by the applicant.

7. If the applicant submits his representation well in time, the same should be considered as per instruction/guidelines and the rules governing the matter relating to transfer in the Income Tax Department within a period of 10 days keeping in view that the last date of relieving the applicant has been fixed as 10.04.2011.

Ordered accordingly.

8. With the above observation and direction, without going into the merits of the case and as agreed to by the Ld. Counsel for the parties, we dispose of this O.A. at the stage of admission itself.

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9. Send copy of this order, along with copy of the O.A., to Respondent Nos. 2 and 3 by "Speed Post" at the cost of the applicant for which he undertakes to deposit the postal requisites by tomorrow. Free copy of this order be also given to the Ld. Counsel for the parties today itself.


MEMBER (Judl.)


MEMBER (Admin.)

R.K.