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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A. No.200 of 2011

B.B.PattnaikApplicant

Vs

UIO & Ors.Respondents

1. Order dated: 07-07-2011.

C O R A M

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

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The Applicant while continuing at Balugaon Railway Station during March, 2008 was transferred and posted as Station Superintendent of Humma Railway Station. While continuing there, vide order under Annexure-2, dated 08/03/2011, he was transferred, in the same capacity, and posted to BAV (Baruva) in the State of Andhra Pradesh. This order in Annexure-2 was challenged by him in OA No.133/2011 and this Tribunal disposed of the matter on 15-03-2011 with liberty to the applicant to make his representation which shall be considered and disposed of with a reasoned order by the Respondents within seven days thereafter. Accordingly, by preferring representation dated 21-03-2011, for the grounds taken therein; especially for the reason of his illness, the Applicant had requested to cancel his order of transfer or to consider his posting either at Rambha Railway Station; which post was likely to be vacant on the retirement of the incumbent holding

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the post or to post him at BBS or Sakhigopal. The Respondents considered the representation but rejected the request of the applicant on the ground that as per the policy of the Railway Board as the applicant is holding a sensitive post, he should not have been retained in the post or under the administrative jurisdiction of the same sectional DTI for more than four years; whereas, the applicant remained in the said post under the same sectional DTI for last nearly six years; secondly Railway working is divided under functional units called Divisions which spread across District and State boundaries. The station Baruva to which the applicant has been transferred and posted is only 90 KMs away from his present station of posting whereas the Khurda Road Division is spread over an area more than 600 KMs. In so far as the request of the applicant to post him either at Rambha or BBS/Sakhigopal, it was stated by the Respondents that the request of his posting at Rambha is not permissible under the Rules as Rambha falls within the jurisdiction of the same DTI posting on transfer after completion of the tenure of four years in a sensitive post is strictly prohibited in the Rules. With regard to the request of his posting either at BBS or Sakhigopal it was stated by the Respondents that the said prayer cannot be considered at present as there is no vacancy at either of the places/stations. However, it

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was assured to the applicant that his request for posting him at either of the places would be considered as and when there is any vacancy made available at BBS or SIL and if there is no older appeal for own request transfer. Hence by filing this OA, he seeks to quash the order of rejection of his representation in Annexure-8 so also the order of transfer in Annexure-2 posting him to Baruva.

2. The Respondents, citing provisions of the Rules/Railway Board's instruction have reiterated the reasons given in the order of rejection and have stated that the applicant is holding a transferable post as transfer is an incident of service and since the transfer has been made in public interest interference is unwarranted. The Applicant has filed his rejoinder more or less reiterating his stand taken in the OA. Having heard Learned Counsel for both sides, perused the pleadings and materials placed in support thereof by the respective parties.

3. The duty of a Station Superintendent in a Railway Station is a quite onerous. He has to administer the running of the train in the track so also the safety and security of the passengers. He is overall in charge of the yard of the stations and, therefore, keeping the interest of the public at large, the Railway Board has issued instruction which is statutory in character to the effect that persons holding sensitive post should not stay in a post more than

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four years and it is not in dispute that Station Superintendent in which post the applicant is working is a sensitive post. It is true that the request of the applicant for his posting at Rambha Railway Station could not be acceded to by the authority as Rambha falls within the jurisdiction of same Sectional DTI and at present there is no vacancy either at BBS or Sakhigopal. However, assurance was given by the Respondents that as and when vacancy would be available at BBS or Sakhigopal his request would be considered as per Rules. Learned Counsel for the Applicant's contention that the order of transfer is actuated with *mala fide* is based on conjecture and surmises without any concrete evidence.

4. It is trite law that transfer of an officer holding a transferable post cannot be objected to. The Government is the best judge to decide to distribute and utilize the services of an employee in public interest which is the paramount consideration than any of the personal difficulties. Further transfer within the cadre with identical responsibilities no objection can be made by the employee against the order of transfer and that the Tribunal is not the Appellate Authority to decide on transfer of the officers on administrative grounds. The wheels of the administration should be allowed to run smoothly and the courts or tribunals are not expected to interdict/interfere the working of the administration

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system. It is too late in the day for any government servant to contend that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires. The transfer of an employee is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service. In the absence of any specific indication to the contrary and any unimpeachable material except bald allegation that his transfer is actuated with *mala fide*, I am constrained to decline interference in the matter.

5. For the discussions made above, while refusing to interfere in the orders of transfer at Annexure-2 and rejection of representation at Annexure-8, liberty is granted to the Applicant to make representation seeking his transfer to BBS or Sakhigopal whenever vacancy arises in any of the two places and in that event, I am sure, with the promise made in Annexure-8, the competent authority shall do well to sympathetically consider the same. The OA is accordingly disposed of. No costs.

(C.R. MOHAPATRA)
Member (Admn.)