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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

O.A.No. 217 of 2011

Kumud Kumar Nath .... Applicant

Versus

Union of India & Ors .... Respondents

1. Order dated : 20-04-2011.

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

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

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The Applicant is a Deputy Commissioner of Income Tax. According to him, he has been continuing in Odisha Region since his promotion to the post of Assistant Commissioner of Income Tax w.e.f. 17.10.2002. In order dated 25<sup>th</sup> March, 2011 (Annexure-1) he has been transferred from Orissa to Nagpur CCA (Maharashtra) on administrative exigency. This order has been assailed by him in this OA with prayer to quash the impugned order of transfer in Annexure-1, to award compensation and/or cost to the Applicant and to direct for appropriate action against the erring officers for causing undue motivated harassment and damage to the applicant for the sake of vindication of justice.

2. By reiterating the stand taken in the OA, Learned Counsel for the Applicant heavily pressed for issuance of notice and for grant of the interim order of stay prayed for by him in this

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OA. This was strongly opposed by Mr. U.B.Mohapatra, Learned SSC for the Union of India appearing on notice for the Respondents. Having heard them at length, perused the materials placed on record.


3. Fact remains that the post in which the applicant is continuing is having all India transfer liability. As it appears the transfer of the applicant has been made in administrative exigency. In the order not only the applicant but also several others have been transferred as a matter of routine from one place to other. In a transferable post an order of transfer is a normal consequence and personal difficulties are matters for consideration of the Department. It is well settled law that transfer is an incident of service and when one has accepted and joined the service knowing fully well that the service is having all India transfer liability, he/she surrendered his/her option to resist the transfer later on, made by the Government in public interest or administrative exigency. It is true that the order of transfer often causes a lot of difficulties and dislocation in the family set up of the concerned employees but on that score the order of transfer is not liable to be struck down. Of course, it is trite law that Tribunal can interfere in the order of transfer if it is made *mala fide* or the authority passing the order of transfer is not competent to do so and/or the order of

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transfer is in violation of statutory Rules. Though the applicant alleges mala fide but he has not placed any evidence so as to persuade us to accept such allegation. In a catena of decisions the Hon'ble Apex Court held that who should be transfer where is a matter to be decided by the administrative authority and the Tribunal should not interfere in the same as a matter of routine. In the above perspective, we do not find any reason to fish into the administrative affairs of the Department for quashing the order of transfer; especially when the same is in public interest. For the reasons stated above, this Original Application stands dismissed at this admission stage. Send copies of this order along with OA to the Respondent No.2 for record.

  
(A.K.PATNAIK)  
Member (Judl.)

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