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O.A. No.182/2009

ORDER DATED 14th MAY, 2009

Coram:

Hon'ble Mr. Justice K. Thankappan, Member (J)

Hon'ble Mr. C.R. Mohapatra, Member (A)

Heard Mrs. U.R. Padhi, Ld. Counsel for the petitioner and Mr. U.B. Mohapatra, Ld. Sr. Standing Counsel for the Respondents.

2.The applicant has approached this Tribunal by challenging the Transfer Order No.4/4/2008-Admn. (Pt.II)/ 2910-44, dated 02.03.2009 (Annexure-3) transferring him to Jaipur. The grounds urged in the O.A are that his father is suffering from C.V.A., H.T.U, Neuro surgery and also affected by paralysis on one side, for which his father needs regular treatment at Capital Hospital, Bhubaneswar and S.C.B. Medical, Cuttack. That apart the transfer order now made is in complete derogation of the recommendations made by the Executive Engineer as per Annexures-5, 6 & 6/A letters. It is the further case of the applicant that he had already chosen two other stations i.e. New Delhi & Kolkatta as per option letter exercised by him under Annexure-2 dated 04.02.09, but without considering the same the present order transferring him to Jaipur has been passed.

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3. Ld. Counsel reiterates the averments made in the O.A and submits that though the transfer order has been passed on 02.03.2009, the applicant has not been relieved so far.

4. Mr. U.B. Mohapatra, Ld. Sr. Standing Counsel appears for the Respondents on notice submits that he is not aware whether the applicant has been relieved from the present place of posting in the meantime or not. Mr. Mohapatra further submits that Annexure-3 transfer order is a chain of transfer concerning 16 employees. If, this Tribunal interferes with the order of transfer it will have its own consequences, as per the settled principle of law propounded by the Hon'ble Apex Court that it is the duty of the Government employee to report at first for duty at the transferred station and thereafter represent before the authorities.

5. We have anxiously considered the submissions made by the Ld. Counsel for the parties and perused the records. Admittedly, as per transfer guidelines, after lapse of tenure of five years, all officers/officials are to be transferred from one place to another, in line with the option exercised by the employees concerned. The applicant had also given an option as per Annexure-2. Without considering the place of his choice, the present order has been passed transferring the applicant to Jaipur. Against the said transfer order the applicant has filed a representation Annexure-8, in which the main ground taken by him is that his father is under treatment of

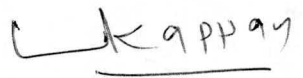


various ailments at Cuttack & Bhubaneswar and that even if he had chosen two places, viz., Kolkatta and New Delhi for his posting on transfer with a view to get better treatment from A.I.M.S., New Delhi and Kolkatta, that was not considered by the authorities.

6. Having regard to the above, we are of the view that the order transferring the applicant to Jaipur as per Annexure-3 should be stayed for a period of 03(three) months and in the meanwhile, the Director General, National Water Development Agency, New Delhi ^{has} to consider Annexure-8 and dispose of the same within a reasonable time, at any rate, within 03 (three) months from today. Till a final decision as directed above is taken, Annexure-3 shall be stayed ^{so far as possible}. It is also made ^{clear} that this stay order will take place if the applicant has not been relieved as on date. ^{6/6/97 applied}

7. With the above observations and directions this O.A. is disposed of at the stage of admission. No order as to costs.


Member (A)


MEMBER (J)