

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.354 of 2011
Cuttack this the 25th day of August, 2011

CORAM:

HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER
AND
HON'BLE SHRI A.K.PATNAIK, JUDICIAL MEMBER

Six applicants, at present working in the office of the Assistant Director (Mechanical) (Respondent No.3) having a common cause of action have approached this Tribunal in the present Original Application praying therein to quash order dated 21.05.2011(Annexure-A/2), by virtue of which they have been asked to report for duty at MSME Tool Room (CTTC), Bhubaneswar with effect from 23.05.2011.

2. The legality and validity of the impugned order has been called in question on the grounds that the applicants being the employees under the Government of India could not have been transferred and/or asked to report for duty in an organization which is a Registered Society under the Society Registration Act, being established in collaboration with Government of Denmark, Germany, Orissa and UNIDO and Govt. of India, which does not come within the administrative control of Director, MSME (Res.No.3) who is the employer of the applicants.

3. This matter came up for admission on 26.5.2011, when, while directing notice to the Respondents, this Tribunal, as an interim measure, kept in abeyance the impugned order of transfer vide Annexure-A/2 which is in force as on date.

4. In reply to notice, Respondents have filed their counter opposing the prayer of the applicants. They have stated that the applicants who are the technical personnel of MSME Development Institute, Workshop, Khapuria have been directed to report for duty in MSME Tool Room, Bhubaneswar without their service conditions being changed and for the efficient utilization of man power. They have added that there

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being no mala fide intention in directing the applicants to report for duty at CTTC, Bhubaneswar, the Tribunal should not interfere with the matter. In the circumstances, they have prayed that the O.A. being devoid of merit is liable to be dismissed.

5. We have heard Shri D.P.Dhalasamant, learned counsel for the applicants and Shri S.Mishra, learned Addl. Standing Counsel for the Respondents and perused the materials on record.

6. Upon perusal of counter, it reveals that the Respondents have not disputed the fact that MSME Tool Room, Bhubaneswar, where the applicants have been directed to report for duty, is a Registered Society under the Society Registration Act being established in collaboration with Government of Denmark, Germany, Orissa and UNIDO and Govt. of India. From this, it is quite clear that MSME not being fully owned and controlled by the Government of India as that of MSME Development Institute, the former does not come within the administrative control of Respondent No.3, viz., Director and such, order at Annexure-A/2 issued without power, authority and jurisdiction is non est in the eye of law.

7. For the reasons aforesaid, the impugned order dated 21.5.2011 at Annexure-A/2 to the O.A. is quashed.

With the above observation and direction, this O.A. is disposed of. No costs.


JUDICIAL MEMBER


ADMINISTRATIVE MEMBER