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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

O.A. No. 450 of 2011

Souvik Saha .....Applicant

Vs

UOI & Ors. ....Respondents

Order dated: 15-07-2011.

C O R A M

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


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Heard Mr. Achintya Das, Learned Counsel for the Applicant and Mr. S.K.Ojha, Learned Standing Counsel appearing on notice for the Respondent-Railway and perused the materials placed on record which includes certain documents produced by Mr.Ojha.

2. The case of the Applicant, in brief, is that he is a Chief Office Superintendent in the establishment of Senior Divisional Personnel Officer, East Coast Railway, Khurda. Besides, being a Scheduled Caste, he is an Orthopaedically Handicapped person. By placing copy of the seniority list of the Ch. Office Superintendent of the office of Senior Divisional Personnel Officer, ECoRly,KUR it has been stated that out of 19 Ch. Office Superintendent, the position of the applicant is at Sl.No.11. According to him, out of 19 many of them who have been placed above him have been continuing in the same post and office since

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1998. He was promoted to the said post of Ch. OS w.e.f. 29-07-  
✓ 2005. The Ch.OSs working in the establishment of Respondent No.3 belong to a class themselves. Their transfer, posting and promotion is within the establishment of Respondent No.3, in other words the Ch.OSs are not holding any transferable post. While the matter stood thus, Respondent No.3 issued Office Order No. 25/2011 dated 12.07.2011 in which along with the post, the applicant was transferred to the Establishment of Sr.DEE/ELS/ANGL with direction to the Applicant to hand over the charge to one Shri P.K.Sethy, working as OS/Staff-A(Mech.) of Personnel Branch/KUR. The Applicant while continuing on sick leave w.e.f. 13-07-2011 he was served with an order dated 12.07.2011 (Annexure-A/6), in his residence on 13.07.2011, releasing him from his post. He preferred representation to the GM, ECoRly,BBSR in Annexure-A/7 dated 13.07.2011 requesting cancellation of his order of transfer. Thereafter he has approached this Tribunal in the present OA seeking to quash the order dated 12.7.2011 in Annexure-A/4 in so far as his transfer is concerned and the order in Annexure-A/6 dated 12.7.2011 in releasing him in absentia. As an interim measure, he seeks to stay the order in Annexures-A/4 and A/6 with direction to the Respondent No.3 to allow him to continue in his post in the establishment of




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Respondent No.3 at KUR. His grounds stated in support of his challenge are that the order of transfer is bad in law as Respondent No.3 has no competence, jurisdiction and authority to transfer the post, he is not the junior most or senior most Ch.OS to face the transfer in the event of transfer of one post of Ch.OS in administrative interest; is PH and Scheduled Caste and many other grounds which I do not feel it necessary to record as it is seen that by stating all these points he has rightly put forth his grievance in Annexure-A/7 before the highest authority of the Department i.e. GM, ECoRly, KUR. Therefore, in my opinion without interfering in the matter ends of justice would be met if this OA is disposed of directing the GM, ECoRly, KUR to consider and dispose of the representation of the applicant as at Annexure-A/7. But Mr. Das, Learned Counsel for the Applicant submitted that he has no objection if this OA is disposed of with the above direction but in that event direction be issued to the Respondent No.3 to allow the Applicant to continue in the post in which he was continuing prior to the order under Annexure-A/4 dated 12.07.2011. This was strongly opposed by Mr. Ojha, Learned Standing Counsel appearing on notice for the Respondents stating that the transfer was for a temporary period. The Applicant having received the order of transfer in his letter dated 12.7.2011

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requested to release him immediately so as to report at his new place of posting immediately. Accordingly the Applicant was released vide order dated 12.7.2011 and as such the Tribunal should not grant the interim order prayed for by the Applicant. The Applicant's counsel while explaining the circumstances questioned the letter dated 12.7.2011 and sought to consult his client as to whether he has at all submitted the same. However, without getting into all that controversy at this stage, (as this can well be examined/verified by the Respondent No.1 while considering the representation of the Applicant) this Original Application is disposed of with direction to the Respondent No.1 (GM, ECoRly, BBSR) to consider and dispose of the representation of the Applicant as at Annexure-A/7 (meeting/answering all the points raised by him) and communicate the decisions in a well reasoned order at an early date. Till this is done, the Respondent No.3 (Sr. Divisional Personnel Officer, KUR) is hereby directed to allow the Applicant to continue in the place where he was working prior to the order under Annexure-A/4 dated 12.07.2011.

  
(C.R. Mohapatra)  
Member (Admn.)