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O.A.No. 738 of 2011

Bhanu Kishore Biswal .... Applicant  
Versus  
Union of India & Ors .... Respondents

Order dated 28<sup>th</sup> March, 2012.

C O R A M

THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (A)  
AND  
THE HON'BLE MR.A.K.PATNAIK, MEMBER (J)

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O R D E R

The Applicant challenges the order dated 2/5-09-2011 in which he was transferred from AIR Cuttack to CCW, AIR, Rourkela and the order dated 24.10.2011 in which he was relieved from his place of posting so as to join at CCW AIR Rourkela with prayer to quash both the orders. By filing counter, the Respondents have opposed the prayer of the applicant on the ground that due to shifting of Cuttack Sub Division to Rourkela, for smooth functioning/running of the Office of the Assistant Engineer (Civil), CCW, AIR, Rourkela, as per the order of the Directorate General, CCW, AIR, New Delhi dated 7.4.2011, the applicant was transferred and posted to Rourkela which needs no interference by this Tribunal.

2. Having heard Learned Counsel for both sides, perused the materials placed on record especially the order at Annexure-A/1. It is the specific contention of the applicant that while others affected by the shifting of Cuttack Sub Division to Rourkela were adjusted either at Cuttack or nearby places, for

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no reason the applicant was sent to Rourkela and although he submitted representation, it was not considered by the authority. In the aforesaid circumstances, learned Counsel for the Applicant has prayed for quashing the order under Annexure-A/2 & A/5.

3. This OA was filed on 31<sup>st</sup> October, 2011 and was taken up for consideration on 01-11-2011; when on consideration, this Tribunal while issuing notice to the Respondents to file their counter, and allowing time to file show cause to the ad interim relief prayed for by the applicant in the OA, as an interim measure directed status quo to be maintained on the relieve of the applicant for a period of two weeks and the said status quo order has been continuing till date.

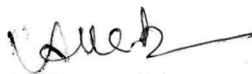
4. It is the case of the Respondents that the applicant was transferred to Rourkela due to shifting of Cuttack Sub division to Rourkela as per the order under Annexure-A/1 dated 7.4.2011. In Annexure-A/1, the competent authority, while ordering the shifting of the Sub Division from Cuttack and its staff, a specific request was made to the Station Director, Cuttack to adjust the administrative staff of Cuttack Sub Division and post substitute for newly created Sub Division at Rourkela. It is the positive case of the applicant that none except him has been disturbed. This being a matter of transfer,


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Respondents' contention that Court/Tribunal lacks jurisdiction to interfere cannot be a ground for this Tribunal to turn a Nelson's eye to the injustice caused in the decision making process of the matter. We observe that the endorsement to the Station Director at Annexure-A/1 has not been followed while issuing the order of transfer of the Applicant. Be that as it may during the course of hearing of the OA, Learned Counsel for the Applicant submitted that the Applicant would submit a fresh representation focusing on the direction contained at Annexure-A/1 within a period of seven days and she sought our indulgence for a direction to the Respondents to consider the same and pass a reasoned order within a period of fifteen days thereafter. This line of action was also agreed to by the Learned ASC for Respondents. Ordered accordingly. Till the disposal of the representation as aforesaid the status quo order dated 1.11.2011 of this Tribunal which has been continuing shall remain in force.

5. With the above observation and direction this OA stands disposed of. No costs.

  
(A.K. Patnaik)  
Member (Judicial)

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