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OA No. 242 of 2009

Suresh Ch. Das Applicant
Versus
UOI & Ors. Respondents

1. Order dated 4th September, 2009.

C O R A M

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

Applicant is a Upper Division Clerk working in the DDK, Bhubaneswar. By filing this Original Application he challenges his order of transfer under Annexure-A/3 dated 26th May, 2009 transferring him from DDK, Bhubaneswar to DMC, Jeypore. The ground of challenge of his order of transfer is that the order of transfer was in contravention of the transfer policy framed by the Respondents and produced by him at Annexure-A/2 inasmuch as the Respondents instead of transferring the employees who have the longest stay in the station disturbed him at the mid education session and in case the transfer is effected there will be serious dislocation of the studies of his children. Respondents by filing counter contested the stand of the Applicant by stating that the daughter of the applicant is studying MCA in Utkal University and in case this is taken as one of the ground then till completion of her study he cannot be disturbed. Further it was contended that the applicant has the longest stay in the particular station at DDK, Bhubaneswar and as such his transfer is in no way irregular or illegal and the guidelines under Annexure-A/2 is advisory in nature but not obligatory in character and violation of any of the principle can hardly give any scope to the applicant to challenge the order of

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transfer which has been made in public interest and in the interest of administration. Heard Learned Counsel for both sides on the above aspects and perused the materials placed on record. The competence of this Tribunal to interfere in the order of transfer which has been made in public interest is no more *res integra*. It has been held by the Hon'ble Apex Court in ordinary circumstances the Tribunal should not interfere in the order of transfer which has been made in public interest unless the said order is actuated with *mala fide* exercise of power which is not the case of the applicant nor is it the case of the applicant that he is not holding transferable post. In view of the above I find no justifiable reason to interfere in the order of transfer. Hence this prayer of the Applicant is rejected.

2. However, last but not the least it was contended by the Learned Counsel for the Applicant that there are vacancies in various nearby places of Bhubaneswar and he desires to make a representation for his posting in one such places and in that event direction may be issued to the Respondents to consider the said representation of the Applicant. In this connection it is recorded that no liberty is necessary for making any representation to the authorities; because a Government servant has every right to make representation pertaining to his/her service grievance and the Authorities are duty bound to take a view on the same. Hence no leave of this Tribunal is warranted for this purpose. However, it is made clear that if any such representation is made by the Applicant the same may be

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considered and a reasoned ^{order} be passed within a reasonable period.

3. For the discussions made above, this OA stands disposed of. No costs.


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

