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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.246 of 2009
Cuttack, this the 14th day of January, 2010

Lalatendu Prasad Kar Applicant
Versus
Union of India & Others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not?
2. Whether it be circulated to all the Benches of the CAT or not?


(C.R. MOHAPATRA)
MEMBER (ADMN.)

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C O R A M

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

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Lalatendu Prasad Kar, aged about 40 years, son of Bipin Bihari Kar, village-Lunahara, Post-Salipur, Dist. Cuttack (Orissssa) at present working as Office Surveyor, OGDC, Survey Bhawan, PO. RRL, Bhubaneswar, Dist. Khurda (Orissa).

.....Applicant

Legal practitioner : M/s. S.N.Sahoo, P.R.Bhuyan, Counsel.

- Versus -

1. The Union of India represented through the Surveyor General of India, Hatibarkala, Dehra Dun, Uttaranchal, India.
2. Director, OGDC, Survey of India, Post-RRL, Bhubaneswar-13, Dist. Khurda (Orissa).

.....Respondents

Legal Practitioner : Mr. S.Mishra, ASC

O R D E R

MR. C.R.MOHAPATRA, MEMBER (ADMN.):

Heard Learned Counsel for the Applicant and Mr. S.Mishra,

Learned Additional Standing Counsel for the Respondents and perused the materials placed on record. The order under Annexure-3 dated 09.06.2009 transferring the Applicant from Bhubaneswar to Patna has been challenged by the applicant in this Original Application filed under section 19 of the A.T.Act, 1985 on the ground of non-completion of the tenure of five years by the applicant in his present place of posting. Further rationalization of man power has not been done in the manner it should have been done and as per clause 6(4) of transfer policy an employee may request for last positing at his choice station before his superannuation the period of which shall not be more than two years whereas the committee while recommending transfer failed to take into consideration the names of the officers who had more than two years

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of superannuation; officers having 15 to 34 years of stay at Bhubaneswar have not been transferred but the applicant who had served 11 years of service outside and only completed seven years at OGDC Bhubaneswar as surveyor has been transferred. It is the specific stand of the Applicant that on promotion he was posted as Officer Surveyor Group B at OGDC Bhubaneswar on 27.06.2005 and he will complete five years on 27.5.2010. Therefore, the order of transfer being bad in law the same is liable to be quashed.

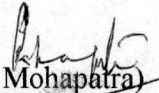
2. In reply it has been stated by the Respondents that a committee of officers was formed by the Ministry of Science and Technology (Department of Science and Technology)/The Surveyor General of India for rationalization/balancing of the man power. The Committee looked into surplus/shortage of staff at all GDCs/offices at all levels. In the light of the report of the Committee of officers, the Ministry of Science & Technology (Department of Science & Technology)/ the Surveyor General of India took a decision to post out some Officers Surveyors ensuring that such officer surveyors who have comparatively lesser years of service left before their superannuation are retained and younger officers posted out keeping in view that the stay of the officer is not less than five years. The Applicant has been continuing at Bhubaneswar since 07.08.2002 and he has completed seven years service in Bhubaneswar. He is fifth senior most officer surveyor in Bhubaneswar taking into account his duration of posting at Bhubaneswar. In this connection by relying on various decisions of the Hon'ble Apex Court in the matter of interference in the order of transfer and posting, the Respondents have prayed for dismissal of this OA.

3. Heard the arguments advanced by the respective parties and perused the materials placed on record. There is no need to record all the arguments advanced by the parties as it has fairly been submitted by Learned

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Counsel for the Applicant that in the promotional post the applicant is going to complete five years by the end of June, 2010 and he has no objection for his transfer, if at all it is necessitated by the Respondents after June, 2010. Although Learned Additional Standing Counsel vehemently opposed the quashing of the order of transfer but did not put much emphasis to the submission of the Learned Counsel for the Applicant that he has no objection if the transfer is given effect to by the end of June, 2010. In view of the above, without going much into the matter and without interfering in the order of transfer of the applicant, this Original Application is disposed of with direction to the Respondents to keep the order of transfer of the applicant in abeyance till the end of May, 2010 and thereafter the Respondents are free to give effect to the order of transfer and in that event the applicant would be duty bound to obey the same. No costs.


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