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O.A. No. 278 of 2009

Order dated: 20.07.2009

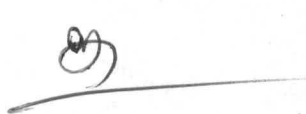
CORAM:

Hon'ble Mr. Justice K. Thankappan, Member(J)

Hon'ble Mr. C.R.Mohapatra, Member (A)

Challenging the transfer order dated 2.7.2009, transferring the applicant from Sambalpur to Titilagarh as Supervisor of Running Room, the applicant has filed this O.A. When the O.A. came up for admission, it was contended by the Ld. Counsel for the applicant that presently the applicant is working as a Crew Controller and there are two other posts available both in Bhubaneswar and Cuttack, against which the applicant can be accommodated. In the above circumstances, this Tribunal gave time to the applicant to file any material or record to show that his stand is correct and, stay of the order under challenge was granted. However, on filing an affidavit, the applicant reiterated the same stand.

2. On hearing the Ld. Counsel for the Respondents regarding the above stand taken by the applicant in the affidavit, it is made clear that there is no post available




either in Cuttack or in Bhubaneswar to accommodate the applicant and hence the case is further heard.

3. Heard Mr. S.Rath, Ld. Counsel for the applicant and Mr. S.K.Ojha, Ld. Standing Counsel for the Respondents appearing on notice.

4. The case of the applicant as projected in the O.A. is that while working in the Department, the applicant was declared medically decategorized and he was posted as a Crew Controller at Sambalpur. While continuing at Sambalpur, the applicant filed O.A. No. 132/09 before this Tribunal alleging that his posting as Crew Controller is against the Rule of medical decategorization as it is the duty of the Respondents to accommodate him in other post equivalent to that of the post which the applicant was holding at the time of declaration of medical decategorization. However, that O.A. has been already admitted by this Tribunal. When the above O.A. is pending, the recent order of transfer has been passed by the Respondents transferring the applicant from Sambalpur to Titilagarh, which is under challenge.

5. We have gone through the averments in the O.A. as well as the arguments of the Ld. Counsel for the



applicant. The main triumph card of the applicant challenging transfer order is that as he was medically decategorized, he is entitled to be posted in any post protecting his pay. As he is continuing as Crew Controller, the present order is not sustainable. Secondly, it is contended that two other posts are available at Bhubaneswar as well as at Cuttack to accommodate the applicant and for that the applicant filed an affidavit also.

6. We have considered the above affidavit filed by the applicant and heard the Ld. Counsel for the Respondents, Mr. Ojha, regarding the stand taken in the affidavit. However, the Ld. Counsel appearing for the Respondents submits that there is no post available either in Cuttack or in Bhubaneswar to accommodate the applicant on the pay scale of the applicant, which he is now drawing even on medical decategorization. Hence, we are of the view that if the transfer order is otherwise good and is on administrative reasons and also on the ground that there is no post to accommodate the applicant on medical decategorization, we are not inclined to interfere with the transfer order passed by the Respondents.



7. Accordingly, the O.A. fails and stands dismissed
with no order for costs.

MEMBER (A)

MEMBER (J)

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