

Sruti Ranjan Sahoo ... Applicant
Versus
UOI & Ors. ... Respondents

Order dated 17 September, 2009.

C O R A M

THE HON'BLE MR.JUSTICE K.THANKAPPAN, MEMBER (J)
A N D

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

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Applicant a Booking Clerk of the Railway apprehending his order of transfer under Annexure-9 earlier approached this Tribunal in OA No. 347 of 2009. The matter was listed on 09.09.2009 for consideration on the question of admission and grant of interim order prayed for by the applicant therein. On the request of the Learned Counsel for the Applicant the aforesaid OA was dismissed as withdrawn, of course, with liberty to approach this Tribunal in fresh OA if so advised. It is the case of the Applicant that the authorities transferred the Applicant under Annexure-12 to a place other than the place to which he was transferred under Annexure-9. He has, therefore, approached this Tribunal in the present OA stating that the present order of transfer is in gross violation of the Railway Board's instruction; the transfer would cause dislocation of his family and cause irreparable injury to the education of his son who is prosecuting his study in Class IX at Brajarajnagar.

Heard Learned Counsel for the Applicant and Mr. S.K.Ojha, Learned Standing Counsel appearing on notice for the Respondents and perused the materials placed on record.



It is seen from the record which was also not disputed by Learned Counsel for the Applicant that the applicant has approached this Tribunal without availing the opportunity available to him to remedy if any injustice at all has been caused to him in the matter of transfer and posting. It is also not in dispute that the applicant is holding a transferable post. It is trite law that Judicial Review of the administrative decision especially in the matter of transfers which are made in public interest and for administrative reasons is limited and it has been held by the Hon'ble Apex Court in a number of cases that unless the transfer orders are made in violation of any **mandatory statutory rule** or on the ground of mala fide, judicial review of the said order of transfer is unwarranted. A Government servant holding a transferable post has no vested right to remain posted at one place or the other; he is liable to be transferred from one place to the other. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or orders, the Courts ordinarily should not interfere with the order instead affected party should approach the higher authorities in the Department. It has further been held by the Hon'ble Apex Court that if the Tribunal continues to interfere with day to day transfer orders issued by the Government and its subordinate authorities, there will be complete chaos in the administration which would not be conducive to public interest. It is also settled position of law that transfer order would cause personal difficulties is no ground for

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the Tribunal to interfere in the order of transfer; as these are matters to be looked into by the authorities keeping in mind the public interest and administrative exigency. It is borne out from the record as also not disputed by the Learned Counsel for the Applicant that no representation/appeal against the order under Annexure-12 was preferred by the applicant before approaching this Tribunal in the present OA whereas it has been declared in column-6 of the OA that the applicant has exhausted all remedies provided under law. Besides the above, it is seen that in this OA the applicant has made two prayers one for quashing of his order of transfer and the other one for direction to treat the sick period of the applicant as on duty with full salary. Both the prayers being different and distinct this OA also suffers from violation of the relevant provision of the A.T.Act that in one OA there cannot be two different and distinct prayers.

In view of the above, this being a matter of transfer, we are not inclined to admit this OA. But on consideration of the submission made by Learned Counsel for the Applicant, liberty is granted to the applicant to make a representation as desired by him within a period of seven days hence. On receipt of such representation, the Respondents especially the Respondent to whom he will make such representation is directed to consider and dispose of the same with a reasoned order within a period of 15 days of receipt of the same and communicate the result thereof to the Applicant. Till such time,

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if the applicant has not been relieved he shall not be relieved from his present place of posting.

In the result, with the aforesaid observation and direction, this OA stands disposed of by leaving the parties to bear their own costs.

K. Thankappan
(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)

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

K. Thankappan