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O.A. No.446/09

ORDER DATED 16<sup>th</sup> SEPTEMBER, 2009

Coram:

Hon'ble Mr. Justice K. Thankappan, Member (J)  
Hon'ble Mr. C.R. Mohapatra, Member (A)

Aggrieved by the transfer order dated 02.09.09 (Annexure-A/5) this Original Application has been <sup>filed</sup> by the applicant with the following prayer:-

"The Hon'ble Tribunal graciously be pleased to allow the Original Application and directed to the Opposite Party (s) to modify the Annexure-5 and posted him at Berhampur.

And pass such further order as deemed fit and proper in the circumstances of the case."

2. We have heard the Ld. Counsel for the parties and perused the materials placed on record.

3. The main ground urged in this O.A. for attacking the transfer order is that his son, aged about 10 years, is studying in Class-V and his wife is employed in the State Government and the transfer is now in the middle of the academic session. The other ground urged in the application is that there are vacancies existing at Berhampur in the post of HSG-II which the applicant now holding. At the same time, the transfer order is to the effect that the applicant be posted to the present place where only the post of HSG-I exists. In the above circumstances, the Tribunal may interfere in this matter.

4. We have considered the arguments of the Ld. Counsel for the parties and perused the documents produced before us. At present, we are not impressed by the grounds urged by the applicant <sup>that he</sup> is affected or the employment of the wife of the applicant in the State Government. The reason is that the son, who is studying in Class V, being 10 years old can be taken care of by the wife of the applicant. That apart, the employment of the wife of the applicant in the State

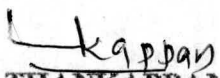


Government is not a valid ground to interfere in the present order of transfer. However, we see some force in the ground urged by the applicant that there are vacancies in the post of HSG-II existing at Berhampur. If such vacancies are there to accommodate the applicant, it is only proper for the Respondents to consider the case of the applicant for which the applicant has already filed representation dated 02.09.09 itself, a copy of which is produced here and marked as Annexure-A/6.

5. In the above circumstances, we are disposing of the O.A. by directing the Respondent No.2 to consider Annexure-A/6 representation and to pass appropriate and reasoned order thereon within a reasonable time at any rate within 30 days from today. If the representation has not so far been disposed of till this time, the respondents shall consider the same as aforesaid. Till that decision is taken on Annexure-A/6 the applicant may not be compelled to join the present post. However, we also feel that the present post is a promotional post but this order passed by the Tribunal will not affect his promotion or posting at any place after consideration of his representation.

6. With above observations and directions, this O.A. is disposed of at the stage of admission itself. No costs.

  
(C. R. MOHAPATRA)  
ADMINISTRATIVE MEMBER

  
(K. THANKAPPAN)  
JUDICIAL MEMBER