

O.A. No. 506 of 2009
Ganeswar Mohapatra ... Applicant
Versus
UOI & Ors. ... Respondents

Order dated 6th November, 2009.

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

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Heard Mr. Mishra, 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.

2. Applicant who is working as Junior Engineer -I (Works) in the Office of the Deputy Chief Engineer (Con.), East Coast Railway, Chandrasekharpur, Bhubaneswar having been transferred under Annexure-A/1 & A/2 to the control of Deputy CE/C/CTC along with others has preferred this Original Application under section 19 of the A.T. Act, 1985 seeking to quash the said order of transfer for the reason that the present transfer would affect the education of his son who is studying in Nursery class at Lucky ^{Nursery} ~~Nursing~~ English Medium School, Bhubaneswar. His contention is that on receipt of the said order he represented to his authority under Annexure-A/3 seeking cancellation of the same and as he apprehends that before any decision is taken on his representation under Annexure-A/3 he is likely to be relieved this present OA is filed. Time without number, the Hon'ble Apex Court in a plethora of

judicial pronouncements held that an order of transfer of an employee is a part of the service conditions and such order of transfer is not required to be interfered with lightly by a court of law in exercise of its discretionary jurisdiction unless the court finds that either the order is mala fide or that the service rules prohibit such transfer or that the authorities who issued the order, had not the competence to pass such order which is not the case in hand. The Hon'ble Apex Court have also held that if there is no impediment the authorities should defer the transfer of an employee if by the order of transfer the education of son and daughter of an employee is hampered. But in the instant case it is seen that the son of the Applicant is prosecuting his study in Nursery and in case the present order of transfer is effected to my view there would be no dislocation of the education of his son. In view of the above, I do not see any reason to even admit this OA. Hence by applying the ratio of the decision of the Hon'ble High Court of Orissa rendered in WP (C) No.2034 of 2009 disposed of on 11.2.2009 in the case of **Premal Panda and Anr v Union of India and others** this OA stands dismissed at this admission stage. However, at the request of Learned Counsel for the Applicant it is recorded that dismissal of this OA shall not stand as a bar for giving due consideration to the pending representation of the Applicant at Annexure-/3.


Member(Admn.)