

OA No.548 of 2009
Asit Kumar Nayak Applicant
Versus
Union of India & Others Respondents

Order dated: 09th March, 2010

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

.....
Applicant, in this Original Application u/s.19 of the A.T. Act, 1985 challenges the order under Annexure-A/11 dated 19.08.2009 in transferring him along with the post of OS Gr.I under the control of ASTE, Cuttack to Sr.DSTE, Khurda on administrative ground. The main thrust of his challenge is that the order of transfer could not have been given effect to during the current mid academic session and there is no post of OS I available at the place where he has been transferred. Respondents filed their counter stating that in absence of the post of OS I the work required to be undertaken at Khurda was seriously hampering. Hence, as a matter of policy a decision was taken to transfer the post of OS I existing under the ASTE, Cuttack to the Office of Sr.DSTE, Khurda along with the person working in the post of OS I at Cuttack. Accordingly, the applicant was transferred along with the OS I post existing under the administrative control of ASTE, Cuttack to Sr.DSTE, Khurda. Accordingly, it has been averred by the Respondents as the transfer was in public interest, this Tribunal being not the appellate authority over the decision of the competent authority in the matter of transfer and posting of the employees, should not interfere with it.

2. Heard in *extenso* the rival submission of the Learned Counsel for both sides and perused the materials placed on record. At the outset it is recorded that transfer is an incident of service and the authorities concerned, are clothed with the power to transfer an employee from one post to other and one place to another and holding a transferable post as in the instant case,

8
no employee can raise any objection when the transfer is in public interest. Similarly, it is trite law that no Court can interfere with the decision of the authority to create and abolish the post. When the competent authority decided to shift the post in question, under the administrative control of one authority to another, that too in public interest, there is hardly any scope for this Tribunal to interfere with the said decision especially there being no injustice caused in the said decision making process of the matter. Hence, this Tribunal is not inclined to interfere with the said decision of the authority. Transfer of the applicant is ~~the~~ consequential to transfer of the post of OS I from Cuttack to Khurda. As stated above, once it is held that this Tribunal is not competent to interfere in the policy decision of transferring the post from Cuttack to Khurda, the second prayer to cancel his order of transfer is redundant. However, I find the prayer of the applicant to at least accommodate him at Cuttack till the expiry of current academic session is genuine and needs sympathetic consideration by the authority which they may consider and pass a reasoned order within a period of 7(seven) days hence. Till such time, the applicant shall not be disturbed from his present place.

3. In the result, with the observations made above, this OA stands disposed of. No costs.


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