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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

OA No.275 of 2010

Cuttack, this the 23rd November, 2010

L.Das Applicant

Versus

Union of India & Others Respondents

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THE HON'BLE MR. C.R. MOHAPATRA, ADMN. MEMBER

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Applicant is a Diesel Technician working under the Respondents presently posted at AIR, Bhawanipatna. In this Original Application his grievance is that AIR Bhawanipatna comes under the category of difficult Station. He was transferred from AIR, Baripada to AIR, Bhawanipatna in the year 1994. Two years has been fixed as tenure for difficult stations. By now he has completed more than fifteen years service in difficult station. Even then his case has not been considered for a posting in one of the places opted by him on the ground that the post of Diesel Technician is non-transferable cadre and that there is no vacant post of Diesel Technician at AIR Cuttack and this decision was communicated by the Respondents to the applicant in letter under Annexure-A/10 dated 23-11-2010. Hence in this OA the applicant

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while seeking to quash the order under Annexure-A/10 dated 23.11.2010 he prays a direction to the Respondents to transfer him from AIR , Bhawanipatna to one of his choicest places viz; Baripada, Kolkata and/or Cuttack.

2. According to the Learned Counsel for the Applicant non-transfer of the applicant and rejection of the representation for his posting in any one of the stations is bad in law. By placing reliance on various correspondences made in this regard copies of which are placed on record, it was submitted by Learned Counsel for the Applicant that at one point of time it was intimated to the Applicant that for the present his request for transfer was not feasible due to non-availability of sanctioned post/vacant post but assurance was given to the Applicant that his request for posting at one of his choice places will be considered as and when vacancy arises in any one of the stations whereas in Annexure-A/10 it was intimated to the applicant that his request for transfer is not possible as the post of Diesel Assistant comes under the category of non-transferable. It was further submitted by him that as per the policy guidelines dated 14.07.1981 the tenure of C

category station is two years and as per clause xvi of the said guideline six months before expiry of normal tenure of posting at a station an employee may give his choice of posting. Though the applicant opted to be transferred to any one of the places stated above, and despite promises held out to him earlier, the Respondents rejected the request of the applicant on the ground other than the grounds taken earlier. Hence, according to the Applicant the action of the Respondents is bad in law being contrary to the doctrine of promissory estoppel and the policy guidelines framed by the Respondents. Accordingly, Learned Counsel for the Applicant sincerely prayed for grant of the relief claimed in this OA.

3. Mr. U.B.Mohapatra, Learned Senior Standing Counsel, appearing for the Respondents, with reference to the contentions raised in the counter reiterated that the Diesel Assistant in AIR is a non-transferable cadre. As such, merely because of his option he cannot claim as a matter of right to be transferred irrespective of availability of vacancy in the said cadre in any one of the stations opted by him. However, it was conceded by him that such

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transfer and posting is possible on compassionate ground provided vacancy exists provided further shifting of the person will not cause any harm to the concerned station where he will be taken. It was submitted by him that as there is no vacancy in the cadre in any of the places opted by the Applicant for his posting his request was turned down and intimated to him in letter under Annexure-A/10. Accordingly, Learned SSC prayed for dismissal of this OA.

4. Considered the submissions put forwarded on behalf of the respective parties and perused the materials placed on record. Mr. Mohapatra, Learned SSC was unable to enlighten about the sanctioned strength and vacancy position in various stations where the applicant sought to be posted. It is seen that Applicant sought his posting because of his continuance in the hard station for a number of years. He applied for his posting and it is the stand of the Respondents' counsel that such transfer is made purely on compassion and humanitarian ground. Neither of the parties was able to convince in regard to the cadre strength in various stations and vacancy. They are


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also unable to provide after promise held out to the applicant if any body has been transferred and posted to any one stations opted by the applicant. They have also produced no material except bald allegation that the transfer of the Applicant from Baripada to Bhawanipatna was on the own request of the applicant or in public interest as a matter of policy. However, fact of the matter is that vide letter under Annexure-A/8 dated 7.5.2009 clarification was sought from the Directorate General, New Delhi as to whether Diesel Technician can be treated as transferable cadre or not. In turn, the Directorate General in letter under Annexure-A/9 dated 09.11.2009 informed that the post of Diesel Technician comes under Group C. CE (EZ) as the Zonal Head was requested to take a decision on transfer as per the Transfer Policy. According to the Learned Counsel for the Applicant, as per the transfer policy Gr. C employees in AIR are having transfer liability from one station to the other after completion of tenure in one station. Except bald statement the Respondents filed no supporting document that the Diesel Assistant comes within the non-transferable cadre.

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In view of the above, I am not convinced about the stand of the Respondents that the posting of the Applicant in any of his choice places of posting is not feasible as the cadre comes within the purview of being non-transferable. This plea is not tenable especially in view of the letter under Annexure-A/9. Hence, the order under Annexure-A/10 is hereby quashed. The Respondents are hereby directed to consider/reconsider the request of the Applicant; especially keeping in mind the promise held out to him earlier and in view of the fact that as per the policy guidelines after completion of certain period in hard station a group C employee has a right to seek for his posting in any of the stations according to his/her choice and that the Diesel Assistant comes under the Gr. C cadre of the Department, within a period of 60(sixty) days from the date of receipt of copy of this order.

5. With the aforesaid observation and direction this OA stands disposed of. No costs.


(C.R. Mohapatra)
Member (Admn.)