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O.A. No. 99 of 2009

Order dated: 13.03.2009

CORAM:

Hon'ble Mr. Justice K. Thankappan, Member(J)

Hon'ble Mr. C.R. Mohapatra, Member (A)

We have heard Mr. G.C Mohapatra, Ld. Counsel for the applicant and Mr. S.B. Jena, Ld. Addl. Standing Counsel for the Respondent No.6.

2. The applicant, now working as the Chief Mechanical Manager, has been ordered to be transferred to Damanjodi from Angul as per Annexure-A/2. Prior to this, the applicant approached the Hon'ble High Court of Orissa by filing Writ Petition No. 1312/2009 taking certain grounds challenging the transfer order. However, the Hon'ble High Court had not considered the grounds raised there instead the Hon'ble High court directed the applicant to file representation before the authority, namely, to the first Respondent, the Chairman-cum-Managing Director of National Aluminium Company (In short, NALCO) to consider the grievances of the applicant and pass an appropriate order thereon within a time given. The above Writ Petition actually filed by the applicant was without knowing the jurisdiction of the Hon'ble High Court to



entertain such application after a notification made vide Govt. of India on 01.12.2008. However, the first Respondent, on considering the representation of the applicant, passed Annexure A/10 order rejecting the claim of the applicant for retaining in the present office~~f~~. However, after the above order passed by the first Respondent, the applicant again approached the Hon'ble High Court by filing Writ Petition No. 3082/09 and on hearing the applicant and finding that the High Court has no jurisdiction to consider after the notification issued by the Govt. of India under Section 14 of the Central Administrative Tribunals Act, the Hon'ble High Court permitted the applicant to withdraw the Writ Petition and directed to approach this Tribunal. Consequently, the applicant approached this Tribunal by filing the present O.A.

3. The main grievance now projected in this O.A. by the applicant is that his wife and the only son are having serious ailments including cardiac problem and they are under treatment in NALCO Hospital and, at this moment if he is transferred to Damanjodi, at a distance of 700 Kms from Angul would ^{cause} ~~cost~~ irreparable loss and it would disturb the family life of the applicant also. Further, the ground




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taken in the O.A. is that his son is reading in 8th standard in the Delhi Public School at Angul and if he is disturbed at the end of the academic year, it will also cause hindrance to the continuity of his study. Further, it is the ground in this O.A. that as per Annexure-A/4 guidelines issued by the corporate office of the NALCO regarding the posting and transfer of the officers and staffs of the NALCO have not been followed by the Respondents while issuing Annexure-A/2, transfer order.

4. We have anxiously considered all the grounds urged in this O.A. and we found that as per Annexure-A/4 guidelines, it is only regarding the rotation of the posting of officers, namely, the executive staffs and other officers in NALCO. It provides that usual tenure is three years for changing the place of work especially in sensitive sections. When we considered this Annexure-A/4, we see that it is not proper in our part to find that the authorities have violated any provision of Annexure-A/4.

5. With regard to the other two grounds urged, we are of the view that Hon'ble High Court directed the applicant to file a representation before the first Respondent, the authorities. However, the said ground taken in the



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representation and the grievances set out therein have been considered by the Respondents, namely first Respondent but it is not discernible from the order now passed at Annexure-A/10 order that the authorities have considered the grounds urged by the applicant with regard to the ailments of his wife and son and other study problem of his son.

6. In the above circumstances, we are of the view that this O.A. can be disposed of with liberty to the Respondents to proceed with the transfer after the end of the academic year, i.e. 31.05.2009. Till that the applicant shall not be disturbed and till that time, the order impugned may be kept in abeyance. Ordered accordingly.

7. With the above direction and order, we dispose of this O.A. No costs.

8. It is made clear that as the O.A. is disposed of at this stage without notice to the Respondents, it is only proper for the applicant to submit a copy of this order and also a copy of the O.A. to the first Respondent for compliance of the order as we have passed today.

9. A copy of this order may be handed over to the applicant on usual course.



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10. It is also made clear that a telegram be sent to the first Respondent with operative portion of the order by the applicant today.

MEMBER (A)

MEMBER (J)

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ORDER DATED: 19/05/09

CORAM:

HON'BLE MR. JUSTICE K. THANKAPPAN...MEMBER(J)

AND

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

None for the applicant.
Hear Mr. O.B. Mohapatra, G. Sr.
Standing Counsel for the
respondents

Call on 20/05/09 "for order".

Member (A)

Member (J)