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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK


OA No.286 of 2012


Cuttack, this the 27th day of June, 2012

Radheshyam Mishra Applicant
Vrs
Union of India & Ors. Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not? ✓
2. Whether it be circulated to Principal Bench, Central Administrative Tribunal or not? ✓


(A.K.PATNAIK)
Member(Judl)


(C. R. MOHAPATRA)
Member (Admn.)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

OA No.286 of 2012

Cuttack, this the 31st day of June, 2012

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

And

THE HON'BLE MR.A.K.PATNAIK, MEMBER (JUDL.)

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Radheshyam Mishra, aged about 55 years, Son of Late Prasanna Kumar Mishra, Village-Remuan, Po.Talcher, Dist. Angul at present working as SUB Postmaster, Chainpal Colony SO, At/Po.Chainpal Colony, Dist. Angul.

....Applicant

By legal Practitioner-M/s.S.Sahoo,P.R.Bhuyan,Counsel
-Versus-

1. Union of India represented through the Chief Postmaster General, Odisha Circle, PMG Square, Bhubaneswar, Dist.Khurda.
2. Director of Postal Service, Sambalpur, At/Po/Dist.Sambalpur.
3. Superintendent of Post Offices, Dhenkanal Division, At/Po/Dist.Sambalpur.
4. Pitabas Sahoo, SPM, Bhapur SO, At/Po.Bhapur, Dist. Dhenkanal.

....Respondents

By Legal Practitioner - Mr.B.K.Mohapatra, ASC
(for Res.Nos.1&3)

&

Mr.P.K.Padhi, Counsel
(for Respondent No.4)

ORDER


C.R.MOHAPATRA, MEMBMER (ADMN.):

In order dated 30.03.2012 among many others, the applicant and the Respondent No.4 have been transferred and posted vice versa. The Applicant was transferred from SPM Chainpal Colony to Kamakshya Nagar SO as PA and Respondent No. 4 who was continuing as SPM, Bhapur SO was posted to the

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place of Applicant. By filing the present OA, the Applicant has challenged the said order of transfer.

2. The main ground of challenge of the order of transfer is that calling for option by the authority and furnishing option by the employee is not an empty formality. When the applicant submitted his option giving three choice places of posting in pursuance of the letter under Annexure-A/1 of the Respondent No.3, the Respondents should not have transferred and posted the applicant to a place other than the places opted by the Applicant. Further stand of the Applicant is that Kamakshya Nagar SO is about 80 KMs away from the place where the applicant is working. His son is a patient of Pul TB with Pleural effusion with Fibrotic Lung and is under treatment at TTPS Hospital. Therefore, the transfer of the applicant will dislocate the orderly manner of treatment of his son. It has been stated that the applicant has ventilated his grievance through representation at Annexure-A/2 seeking posting either to Talcher MDG or Talcher Town as SPM. But the same does not seem to have been taken into account while issuing the order of transfer. Hence, his contention is that, on the above ground, the present order of transfer is liable to be set aside.



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3. Respondents, in their show cause, have contested the case of the Applicant. It has been stated that the applicant has been continuing as Sub Postmaster Chainpal Colony SO since 02.04.2008. As a matter of policy it has been decided by the authority for the sake of preventive vigilance measure to avoid fraud, not to retain an official beyond tenure of four years in a single handed sub post office. The applicant joined in Postal Department on 22.4.1980 and worked for more than 25 years in different offices in Talcher area which is his native place. Mere exercise of option cannot create absolute right in an employee to claim his/her posting in the places opted by him/her. Acceptance of option is subject to administrative exigencies. Therefore, keeping in mind the administrative necessity, the applicant has been posted to the place of the ResondentNo.4 and vice versa. Hence, the Respondents have prayed for dismissal of this OA.

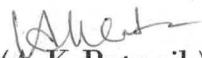
4. The scope for interference by the Tribunal in the order of transfer of an employee made in public interest/administrative exigency other than mala fide exercise of power is well settled in a plethora of judicial pronouncements of the Hon'be Apex Court, Hon'ble High Court so also by this Tribunal. It is not the case of the Applicant that his transfer is actuated with mala fide exercise of power nor his transfer is in


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violation of any statutory Rules. It is the case of the applicant that transfer will adversely affect the treatment of his son. It would not be desirable for the Tribunal to quash the order of transfer on the above ground especially when the transfer of the applicant is in administrative interest. Hence the prayer of the applicant to quash the order of transfer is hereby rejected.

5. All the same the authority is competent to consider the grievance of an employee in case the transfer would cause health related difficulty as in the present case. The Applicant made representation ventilating his grievance which would appear to be still pending with the authority.

6. In view of the above, after giving due consideration to the arguments advanced by the respective parties and upon perusal of the materials place on record, while dismissing this OA, we hope that the Respondents will do well to consider the issue based on the pending representation of the applicant. No costs.


(A.K. Patnaik)
Member(Judl.)


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