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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.509 of 2012

Cuttack this the 26th day of September, 2012

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

And

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

.....

Shri Abhin Kumar Nayak, aged about 50 years, Son of Dandapani Nayak, presently working as Sweeper under the Commissioner of Income Tax (ITAT), Cuttack at present residing at Kafla Bazar, PO. Chandini Chowk, District-Cuttack.

.....Applicant

By the Advocates: M/s.B.S.Tripathy,M.K.Rath,
J.Pati,Mrs.M.Bhat,Counsel.

-Versus-

1. Union of India represented through the Chief Commissioner of Income Tax, Ayakar Bhawan, Rajaswa Vihar, Bhubaneswar, Dist. Khurda, PIN-751 007.
2. The Additional Commissioner of Income Tax (Hqrs.) (Admn.), Bhubaneswar, At/Po.Bhubaneswar, Dist. Khurda.
3. The Commissioner of Income Tax (ITAT), Cuttack, At/Po/Dist. Cuttack.

...Respondents

By the Advocates:Mr.D.K.Behera,ASC

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O R D E R

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

The Applicant is/was working as Sweeper under the Commissioner of Income Tax (ITAT), Cuttack. Vide order under Annexure-A/1 dated 07.05.2012, he was transferred to the Office of the Commissioner of Income Tax, Sambalpur. Being aggrieved, he has approached this Tribunal in the instant OA with prayer to quash the said order under Annexure-A/1 and to direct the Respondents to allow him to continue in the place where he is/was working i.e. at ITAT, Cuttack.

2. The matter was listed on 6th July, 2012 and considering the submissions made by the respective parties notice was directed to be issued to the Respondents requiring them to file their counter, if any, within four weeks. This Tribunal also considered the prayer for grant of interim relief. Mr. Behera, Learned ASC submitted that interim order sought by the applicant should not be granted without considering the reply of the Respondents. Accordingly, while keeping the matter to 09.07.2012 for considering, the prayer for interim relief, after filing the reply, by way of ad interim measure, the Respondents were directed to maintain status quo on the relieve of the applicant till next date. The said order of status quo has been continuing till date.

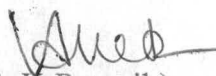
3. Respondents filed their counter in which it has been stated that transfer of the applicant was necessitated on administrative ground as the applicant was found to be utterly negligent in his duty. Further it has been stated that transfer is a normal happening during the service career of a Government servant and as such the Tribunal should not interfere on the same.

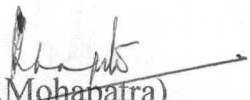
4. Mr. Tripathy, Learned Counsel appearing for the Applicant contended that the applicant belongs to SC community and is working as Sweeper which is not transferable from one station to other. Further by placing reliance on the averments made by the Respondents in their counter it was contended by Mr. Tripathy, Learned Counsel for the Applicant that the transfer based on allegation should not have been

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12/ resorted to without complying with the principle of natural justice. Accordingly, Learned Counsel for the Applicant sincerely prayed for the relief claimed in this OA. Mr.D.K.Behera, Learned ASC appearing for the Respondents objected to the above submission of the Applicant's Counsel. According to him when the applicant was found to be negligent in his work instead of taking any disciplinary action it was decided to transfer him to Sambalpur. Hence this OA is liable to be dismissed.

5. We have considered the rival submissions of the parties and perused the materials placed on record. We find that the applicant is a Group D employee holding the post of Sweeper in the Department. Every employee must be loyal to his/her duty. If the applicant was found to be negligent, transfer is not the solution to the problem. Respondents could have taken action as per Rules. Be that as it may, we find that the present order of transfer though stated to be in public interest but in fact it is by way of punishment without giving any opportunity to the Applicant. Hence we quash the order of transfer of the Applicant, as at Annexure-A/1 dated 07.05.2012. With the aforesaid observation and direction this OA stands disposed of. No costs.


(A.K.Patnaik)
Member(Judicial)


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