

3
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A. No. 134 of 2012

Cuttack, this the 2nd day of March, 2012

Abhiram Das	Applicants
-Versus		
Union of India and Others	Respondents

C O R A M

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

A N D


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

.....

O R D E R


Heard Mr. S.B.Jena, Learned Counsel appearing for the Applicant and Mr.G.C.Nayak, Learned Government Advocate appearing for the State of Orissa and perused the materials placed on record.

2. Consequent upon promotion to the grade of Conservator of Forests vide GA Department Notification No. AIS.III-4/2011-20203/AISI dated 16.09.2011, the Applicant (SFS-1994) has been transferred from his existing posting as DFO,Athamallick KL Division and posted against an exiting vacancy of Conservator of Forests Working Plan Division, Balasore vide Notification dated 13.10.2011. Due to his personal difficulties he made representation under Annexure 2 requesting his posting in twin city of Cuttack and Bhubaneswar. The wife of the applicant made representation under Annexure-A/4 requesting retention of the applicant in the twin city of Cuttack and



9 - 2 -

Bhubaneswar. The PCCF (KL) Orissa vide letter under Annexure-5 dated 25th January, 2012 informed the applicant that since recruitment of foresters and forest guards is over he should immediately join in his promotional post without further delay. Again vide letter under Annexure-6 dated 27th January, the PCCF (KL), Orissa directed the applicant to get himself relieved by handing over the charge of the Division to Shri D.R.Khillar, OFS (JB) sub Divisional Forest Officer, Rampur (KL) Sub Division. The Applicant vide letter under Annexure-7 dated 31.01.2012 requested the Conservator of Forests, Cuttack KL Circle, Cuttack not to insist his relieve till the letter dated 27.1.2012 of the PCCF (KL), Odisha is received. The PCCF (KL) Odisha issued order under Annexure-9 dated 9th February, 2012 directing the Applicant to hand over the charge to Shri Khillar within a period of 3 days positively and join in his promotional post failing which disciplinary action will be initiated against him. In the above background through communication under Annexure-11 dated 18.02.2012 applicant specifically informed the Conservator of Forests, Cuttack (KL), Circle that he will hand over the complete charge of the Division to Shri Khillar on 21.2.2012. Instead of handing over the charge so as to join in his place of posting, the Applicant approached this Tribunal in the instant OA filed on 26.02.2012 seeking direction to the Respondents to consider his



5 - 3 -

posting preferably in Cuttack/Bhubaneswar and to direct the Respondents not to take any coercive action. As an interim measure he has prayed to direct the Respondents not to insist handing over the charge of the post of DFO, Athamallick until the order of transfer of the applicant is modified and/or representation under Annexure-2 & Annexure-4 are disposed of judiciously.


3. On the request of Mr.G.C.Nayak, Learned Government Advocate for the State of Orissa the matter was posted to date enabling him to obtain instruction and file his reply if any. The matter was listed on 27.2.2012 and the Learned Government Advocate filed instructions which he had received from the Government of Odisha through Memo dated 01.03.2012 copy of which was also served on the other side on 1.3.2012. It reveals from the documents filed by Mr.Nayak, Learned GA through Memo that despite assurance to hand over the charge to Mr. Khillar on 21.2.2012, the Applicant has not handed over the charge. Rather ^{by} making application dated 21.2.2012 he proceeded on leave on health ground 21.2.2012 to 23.2.2012. He has not resumed his duty thereafter and his whereabouts are not known till date. Further it reveals from the record that Shri Khillar assumed the charge of Athamallick KL Division on 28.2.2012.

4. Law is well settled in a plethora of judicial pronouncements that transfer being an incident of service none can

2

b - 4 -

claim as a matter of right to be posted as per his choice. The present transfer of the applicant is after his promotion to the post of Conservator of Forests. He being an IFS Officer should not have resisted his posting on transfer. Further being a responsible officer he should not have played hide and ^{seek} ~~sick~~ with the higher authorities in the matter of handing over the charge on 21.2.2012 as promised by him in letter under Annexure-11 dated 18.02.2012. We observe that in the meantime Mr. Khillar has assumed the charge of the post of DFO, Athamallick. In the circumstances, we do not think there exists any prima facie case for entertaining this OA what to speak of grant of the ad interim relief as prayed for in this OA. **As such this OA is dismissed at the stage of admission.** However, dismissal of this OA shall not stand as a bar on the Respondents to give consideration to the pending representation and communicate their decision in a well reasoned order to the Applicant. No costs.


Member (Judicial)


Member (Admn.)