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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

OA No.87 of 2013
Cuttack, this the 7th day of March, 2013

CORAM -

**THE HON'BLE MR.A.K.PATNAIK, MEMBER (JUDL.)
THE HON'BLE MR.R.C.MISRA, MEMBER (ADMN.)**

.....

**Radheshyam Mishra,
aged about 55 years,
Son of Late Prasanna Kumar Mishra,
Village-Remuan,
Po.Talcher,
Dist. Angul
Ex-SPM, Chainpal Colony, SO.**

....Applicant

By legal Practitioner-M/s.S.K.Das,M.P.J.Ray

-Versus-

Union of India represented through its

1. **Secretary Cum Director General of Posts,
Dak Bhawan,
Sansad Marg,
New Delhi-110 116.**
2. **The Postmaster General,
Sambalpur Region,
At/Po/Dist. Sambalpur-768 001.**
3. **Superintendent of Post Offices,
Dhenkanal Division,
At/Po/Dist.Dhenkanal-759 001**

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4. Director of Postal Services,
Sambalpur Region,
At/Po/Dist.Sambalpur-768 001.

....Respondents

By Legal Practitioner - Ms.S.Mohapatra

O R D E R (Oral)

A.K.PATNAIK, MEMBER (JUDL.):-

Records in this OA reveal that in order dated 30.03.2012 the Applicant was transferred from SPM Chainpal Colony to Kamakshya Nagar SO as PA and one Shri Pitabas Sahoo who was continuing as SPM, Bhapur SO was posted to the place of Applicant. The Applicant challenged the said order of transfer in OA No. 286 of 2012 and this Tribunal by giving in-depth consideration to the issues raised by the Applicant, dismissed the said OA on 27th June, 2012 with pious observation as under:

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

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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.”

2. As it further appears, in compliance of the order of this Tribunal, the Respondents considered the representation of the Applicant and issued the order dated 29.8.2012 under Annexure-A/6 which reads as under:

“This is inform you that the competent authority has gone through the representation dated 22.7.2012 and did not consider your request as no post is vacant at the offices of Talcher except Talcher Town where filling up the post of PA is not justified.”

3. Hence by filing the present OA the applicant seeks direction to the Respondent No.2 to reconsider his case for a giving in/around Talcher Town.

4. Having Heard Mr.S.K.Das, Learned Counsel appearing for the Applicant and Ms.S.Mohapatra, Learned Additional CGSC appearing for the Respondents, perused the records.

5. According to the Applicant he has already rendered thirty three years of unblemished service and this is the last tenure of posting of the applicant's service career.

The posting of the applicant at his choicest place of posting will facilitate the treatment of his son. This was strongly opposed by Learned Counsel appearing for the other side on the ground that one cannot claim as a matter of right to be posted in a particular post or place.

6. Law is well settled that transfer being an incident of service, Courts/Tribunals should be very slow in interfering on the same unless the order of transfer is proved to be made in violation of statutory/mandatory rules or mala fide exercise of power and personal difficulties are matters to be left with the competent authority to decide which is not the case of the Applicant.

7. When, in view of the reasons given in Annexure-A/6, the competent authority did not find feasible to post the applicant this Tribunal being not the appellate authority over the decision of the authority which passed the order this OA deserves to be dismissed and is accordingly dismissed.

There shall be no order as to costs.


(R.C.Misra)
Member (Admn.)


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