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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. NO. 260/00477 OF 2014
Cuttack this the 20th day of June, 2014

CORAM
HON'BLE MR. R. C. MISRA, MEMBER (Admn.)
HON'BLE MR. S.K. PATTNAIK, MEMBER (Judl.)

.....

Niranjan Nayak,
Aged about 59 years,
S/o Late Ghanei Nayak of Village Nagpur,
PO- Balikuda, Dist.- Jagatsinghpur,
Presently working as Sub-Postmaster,
Borikina SO, Dist- Jagatsinghpur.

...Applicant

(Advocates: M/s. D.P.Dhalsamant, N.M.Rout)

VERSUS

Union of India represented through

1. Director General,
Department of Posts, Ministry of Communication,
Govt. of India, Dak Bhawan,
Sansad Marg, New Delhi-110001.
2. Chief Post Master General,
Odisha Circle, Bhubaneswar,
Dist- Khurda, PIN-751001.
3. Director Postal Services,
O/o Chief Post Master General,
Odisha Circle, Bhubaneswar,
Dist- Khurda, PIN-751001.
4. Superintendent of Post Offices,
Cuttack South Division,
At/PO/Dist-Cuttack, 753001.

... Respondents

(Advocate: Mr. P.R.J.Dash)

SB/Chitrak
20/6/14

ORDER (ORAL)

S.K.PATTNAIK, MEMBER (JUDL.):

The applicant has filed this O.A. for quashing of the transfer order dated 09.06.2014 (Annexure-A/7) by which he has been transferred from SPM Borikina SO to PA Jagatsinghpur HO.

2. The grievance of the applicant may be summarized as follows.

The applicant is working as Sub Postmaster Borikina SO w.e.f. 20.06.2009 and is expected to retire on superannuation on 30.04.2015. Respondent No.4 vide memo dated 28.01.2013 asked the applicant to furnish the names of three places as per his choice since the applicant was likely to be disturbed on completion of tenure in the present post on 30.09.2013. In response to the memo dated 28.01.2013 (Annexure-A/1), the applicant submitted a representation and requested for extension of one year on medical ground of his octogenarian ailing mother. Subsequently, Respondent No.4 vide order dated 05.04.2013 transferred the applicant to Jagatsinghpur HO and against said order the applicant made a representation on 08.04.2013 to Respondent No.3, i.e. Director Postal Services, ventilating his grievances and requested for extension of one year, i.e. upto 30.09.2014. Respondent No.3 was pleased to allow the applicant to continue at Borikina for one year and the extension was communicated to the applicant by Respondent No.4 vide letter dated 16.09.2013 (Annexure-A/4). Even though Respondent No.3 allowed the applicant to continue at Borikina upto 30.09.2014, Respondent No.4 vide letter dated 18.02.2014 asked the applicant to furnish names of three places as per his choice where he is likely to be transferred after completion of the tenure in the present post on 30.09.2014. In response to

*S.K.Pattnaik
20/06/14*

the said memo dated 18.02.2014 (Annexure-A/5), the applicant submitted representation on 25.02.2014 with a prayer to exclude him from rotational transfer as he has less than one year service left as on 30.09.2014. Cause of action for the present case arose on 09.06.2014 (Annexure-A/7) when Respondent No.4 in spite of the earlier order of Director Postal Services, transferred the applicant from Borikina to Jagatsinghpur. Grievance of the applicant is that since he has been allowed to continue in the present post up to 30.09.2014, the very order of a below rank officer is malafide and vexatious.

3. After hearing Mr. D.P.Dhalsamant, Ld. Counsel for the applicant, and Mr. P.R.J.Dash, Ld. Addl. Central Govt. Standing Counsel appearing for the Respondents, we could find that in fact when Respondent No.3 had allowed the applicant to continue in the same post up to 30.09.2014 the order of Respondent No.4, a below rank officer to Respondent No.3, is against the decorum of public administration and discipline and in that event the impugned order dated 09.06.2014 needs to be corrected.

4. We dispose of this O.A. at this admission stage with direction to the Respondents not to relieve the applicant till 30.09.2014 as the same has been allowed by Respondent No.3. If Respondent No. 3 is bent upon transferring the applicant from present place, he is to pass another order with reasons for such exigency and how it is for the public administration when the person is going to retire in April, 2015. Hence ordered.

5. O.A. is allowed. The impugned order dated 09.06.2014, in so far as applicant is concerned, is quashed. The applicant need not to be

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relieved till 30.09.2014 which has been allowed by Respondent No.3, who is a higher officer than Respondent No. 4 and Respondent No.4 could not have passed an order which would virtually make the order of his superior authority infructuous. It is further made clear that if Respondent No. 3 is still of the opinion that applicant has to be relieved after 30.09.2014, then in that event he is to pass a reasoned and speaking order underlining the administrative exigency which compels the administration to effect the transfer of a public servant in the wee hours of his service. No order as to costs.

6. A copy of this order be transmitted to Respondent Nos. 3 and 4 for necessary compliance at their end.

S.K.Pattanaik
20/8/14

(S.K.PATTNAIK)
MEMBER(Judl.)

R.C.Misra

(R.C.MISRA)
MEMBER (Admn.)

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