

23 B.Dash-Vrs-UOI&Ors

ADMISSION Sl.No.7 (S.B.)
OA No.260/00494/14
ORDER - dated 25th June, 2014.

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

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The applicant in this OA challenges his order of transfer dated 19.6.2014 from Sambalpur to Berhampur, Bhanjanagar for the same being illegal, arbitrary and against the policy of transfer.

2. Heard Mr.B.P.Das, Learned Counsel for the Applicant and Mr.H.K.Tripathy, learned panel counsel for KVS and perused the records. Mr.Tripathy through a Memo has brought to the notice of this Tribunal that in pursuance of the order dated 19.6.2014, the applicant has already been relieved from her present place of posting vide order dated 23.06.2014. I find that after being transferred, the applicant instead of ventilating her grievance before the next higher authority has straightaway approached this Tribunal by filing the present OA despite the well settled law that if an employee is aggrieved by the order of transfer at the first instance the employee concerned to ventilate his/her grievance before next authority. It is trite law that Transfer is an incidence of service. Who should be transferred and posted where is a matter for the administrative authority to decide. Unless the order of transfer is shown to be clearly arbitrary or is vitiated by *mala fides* or is made in violation of any operative guidelines or rules governing the

Verdict

transfer the courts should not ordinarily interfere with it in the case of **Kndriya Vidyalaya Sangathan v Damodar Prasad Pandey and others, reported in (2007) 2 SCC (L&S) 596.** On being pointed out, Mr.Das craves leave of this Tribunal to make a representation to the Respondent No.1 within a period of seven days and also prays for a direction to Respondent No.1 to consider and dispose of the same within a stipulated period. He also prays that till the said representation is considered direction be issued to allow the applicant to continue in her present place of posting. Though this was strongly opposed by Mr.Tripathy I find that issuance of the aforesaid direction shall not prejudice the interest of any of the parties. Hence without expressing any opinion on the merit of the matter, this OA is disposed of with direction that if any such representation is made by the applicant within seven days hence then the Respondent No.1 should consider and dispose of the same and communicate the result thereof in a well reasoned/speaking order within a period of thirty days to the applicant. Till then status quo as of date in respect of the applicant shall be maintained. There shall be no order as to costs.

3. As prayed for, copy of this order along with OA be sent to Respondent No.1 by speed post at the cost of the applicant for which



learned counsel for the applicant undertakes to furnish the postal requisite by tomorrow.


(A.K. Patnaik)
Member (Judicial)