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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.567/08

Tuesday, this the 6th April, 2010

CORAM:

**HON'BLE MR.JUSTICE K.THANKAPPAN, JUDICIAL MEMBER
HON'BLE MR.K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

Bishnu Charan Choudhury, aged about 57 years,
S/o late N.C.Choudhury of Canal Street,
Gate Bazar P.O., Berhampur-760 001,
Ganjan District, Orissa,
presently working as Civil Education Officer,
INS Venduruthy, Naval Base,Cochin-682 004.

.. Applicant

By Advocate: Sri T.C.G.Swamy

vs.

1. Union of India represented by the
Secretary to the Government of India,
Ministry of Defence, South Block, New Delhi-11 0011,
2. The Chief of the Naval Staff,
Integrated Headquarters of
Ministry of Defence(Navy),
Sena Bhavan, New Delhi-110 011.
3. N.C.Pattnaik, Civilian Education Officer,
Education Office, I.N.S. Chilka.
P.O. Naval Base, Chilka-752037, Distt.Khurda,
Orissa-752037.

.. Respondents

By Advocate:Mr. Sunil Jacob Jose, SCGSC

ORDER

HON'BLE MR.JUSTICE K. THANKAPPAN, JUDICIAL MEMBER:

The applicant, working as Civilian Education Officer(CEO) in the Office of



the Commanding Officer, INS Venduruthy ,Naval Base,Cochin,has filed this application for a direction to the respondents to take necessary steps to transfer and post the applicant at INS Chilka within a time frame, as may be found just and proper. The applicant also challenges Annexure A1 dated 18th December, 2007 by which his request for transfer to INS Chilka has been rejected.

2. The case of the applicant is that the applicant, who is a native of Orissa, was initially appointed as Civilian Education Instructor in the Office of the Commanding Officer, INS Chilka in the State of Orissa on 1st November, 1980. Thereafter he was transferred to Shipwright School,Vizhakapatnam (SWS(V)) and after working there for more than 12 years, the applicant was transferred to Cochin. The applicant has to retire on 31st March, 2012. The applicant has two daughters of marriageable age and his wife is employed in the State Government of Orissa. Hence there is no possibility of his wife or daughters who are staying at Orissa joining him at Cochin. Hence the applicant has filed several representations to the respondents for his transfer to INS Chilka, Orissa. However, without considering the legitimate expectation of the applicant to get a transfer to his native place, the applicant was transferred to Cochin on 18.12.2007. Aggrieved by the above position and the stand taken by the respondents, the applicant has filed this Original Application. Though the applicant has prayed for so many other reliefs in the Original Application, when the O.A. was heard, the counsel for the applicant submitted that he is only pressing the prayer for a direction to be issued to the respondents to consider the transfer of the applicant to INS Chilka at the earliest. The O.A. has been admitted by this Tribunal on 22.1.2009. In pursuance of the notice

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ordered, the respondents have filed their reply statement. In the reply statement, the respondents have stated that the applicant has already filed O.A. No.01/1993 before the C.A.T.,Cuttack Bench for a transfer to INS Chilka. The said Original Application has been heard by the C.A.T.,Cuttack Bench and disposed of by the order dated 24th February, 1993. In the above O.A. the stand taken by the respondents was that the applicant is under all India transfer liability and therefore the Cuttack Bench found that there is no merit at that time in the O.A. and the application has been dismissed. Further stand in the reply statement is that the applicant had served in INS Chilka for a long period and his transfer was necessitated due to service exigency and non-consideration of the request of the applicant for transfer back to INS Chilka is neither a discrimination nor violation of the Article 14 and 16 of the Constitution. It is further stated that now there is no vacancy of CEO at INS Chilka to accommodate the applicant as one N.C.Patnaik is working as Civilian Education Officer there and there is also no suitable vacancy to adjust the applicant at INS Chilka.

3. On getting the counter affidavit the applicant has filed a rejoinder and produced Annexure A-13 letter dated 8.3.2001 of 3rd respondent in O.A.No.01/1993. It is further stated in the rejoinder that the respondents have posted Sri K.P.Singh, CEO, Shri L.P.Singh, CEO in their choice station Mumbai and Shri V.Shankar Rao, CEO in his native place Visakhapatnam, though there were no vacancies of CEOs either at Mumbai or Vishakhapatnam. Hence it is only proper for this Tribunal to give a direction to the respondents that his case for transfer may be considered sympathetically. On receipt of the



rejoinder, an additional reply statement is also filed on behalf of the respondents reiterating the same stand taken in the reply statement to the effect that there is no vacant post of CEO available at INS Chilka.

4. We have heard Sri TCG Swamy, the counsel for the applicant and Sri Rajesh for Sri Sunil Jacob Jose, Sr.Central Government Standing Counsel. We have also perused the documents produced before this Tribunal. It is the case of the applicant that he has to retire on 31st March,2012 and as his wife is employed in the State Govt. of Orissa, there is no possibility for getting a transfer to his wife. Further case of the applicant is that his female children are of marriageable age and nobody except his wife is there to look after them and the applicant is not transferred to INS Chilka in any post available or existed, not as CEO even otherwise he could be accommodated in some other post, considering his date of retirement and also the family problem of the applicant. We have considered his case and we have also seen that the applicant has got 28 years of service,out of which he was outside his native State for more than 20 years and recently he was transferred from Calcutta to Cochin in INS Venduruthy. If his request for a transfer is not considered sympathetically, it may affect his family life, especially the marriage of the daughters of the applicant as he has to remain away from his family. In the above circumstances, considering his entire past service which he had outside his native State, it is only proper for the respondents especially respondent No.2 to consider his case sympathetically and to pass an appropriate order in the matter at the earliest, at any rate within 60 days from the date of receipt of a copy of this order. It is ordered accordingly. It is also further directed that the

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applicant may file a fresh representation narrating all his grievances and his family problems as also the impending retirement to the second respondent within 10 days from the date of receipt of a copy of this order. If such a representation is filed to the second respondent, he shall consider the same and pass appropriate orders thereon within the time frame, as stipulated above. With the above directions, the O.A. is disposed of. No order as to costs.

Dated the 6th April, 2010



(K. GEORGE JOSEPH)
MEMBER (A)



(JUSTICE K. THANKAPPAN)
MEMBER (J)

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