

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) 9340 of 2023

Susanta Bhoi

....

Petitioner

Mr.J.K.Khandayatry, Advocate

-versus-

Union of India and others

....

Opposite Parties

Mr.P.K.Parhi, D.S.G.I.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

29.03.2023

Order No.

01.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).

2. Heard learned counsel for the Petitioner as well as learned Central Government Counsel along with Mr.P.K.Parhi, learned Deputy Solicitor General of India. सत्यमेव जयते

3. The present Writ Petition has been filed with the following prayer :

“Under the aforesaid facts and circumstances, it is therefore, prayed that this Hon’ble Court may graciously be pleased to

i) Quash/set aside the impugned order of transfer, dated 25.01.2023 as at Annexure-7, transferring the Petitioner from G.C., Bhubaneswar to 08 BN, Rayagada, so far as it relates to the Petitioner, by concurrently holding the same as bad, illegal and non-est in the eye of law;

ii) Pass such other order(s) or issue direction(s) as may be deemed fit and proper in the bona fide interest of justice;

4. It is submitted by the learned counsel for the Petitioner that the Petitioner is suffering from cancer and is undergoing treatment at the

moment at AIMS, Bhubaneswar. He also contended that the mother of the Petitioner passed away recently i.e. on 25.01.2023. Further, it is submitted by the learned counsel for the Petitioner that earlier the Petitioner approached this Court challenging his order of transfer from Bhubaneswar to Rayagada. Learned counsel for the Petitioner further submitted that since the Petitioner is undergoing treatment at AIMS his condition is improving now. He also submitted that in the event the Petitioner is transferred to Rayagada, he may not get such facility at Rayagada. Therefore, challenging his transfer order, the Petitioner has approached this Court by filing the present Writ Petition.

5. Learned Central Government Counsel appearing for the Opposite Parties on the other hand submitted that the medical condition of the Petitioner has been categorized as P-2 as per the report submitted by the Medical Board. She further submitted that as per the guidelines, the Petitioner falls under the category as has been stated in the Standing Order No.4 of 2008 dated 15.12.2008 under Clause 22(4) (P-2). It is further submitted that the authorities while preparing the transfer chain has also taken note of the medical condition as well as the Standing order and accordingly the transfer order has been passed. Therefore, learned Central Government Counsel submitted that no illegality has been committed by the Opposite Parties in including the name of the Petitioner in the transfer chain.

6. Considering the submissions made by the learned counsel for the respective parties and upon perusal of the documents annexed thereto, this Court is of the considered view that since the Petitioner is suffering from cancer, he does not find place in the categories that has been referred to by the Opposite Parties while transferring the Petitioner, the same needs to be reconsidered by the authorities keeping in view the ailment of the Petitioner. In such view of the matter, this Court deems it proper to dispose of the Writ Petition at the stage of admission by directing the Petitioner to file a fresh representation giving detail

particulars of his ailment along with supporting documents to the Opposite Party No.2 within a period of 10 days from today. In the event such a representation is filed the Opposite Party No.2 shall do well to consider the same in accordance with law and keeping in view the medical condition of the Petitioner and shall take a decision within a period of four weeks from the date of filing of the representation. The decision so taken be communicated to the Petitioner within a week thereafter. It is further directed that till the representation of the Petitioner is disposed of as has been directed herein above, the Petitioner shall not be disturbed from the present place of posting.

7. With the aforesaid observation, the Writ Petition stands disposed of.
8. Issue urgent certified copy of this order as per Rules.



RKS