

IN THE HIGH COURT OF ORISSA AT CUTTACK
WPC(OAC) No.3094 of 2014

Durga Madhab Mishra

....

Petitioner

Mr. None

-versus-

State of Odisha & Others

....

Opposite Parties

Mr. M.K. Khuntia, AGA

CORAM:
JUSTICE M.S. RAMAN

ORDER

12.04.2022

Order No.

- 01.**
1. This matter is taken up by virtual/physical mode.
 2. The Original Application No.3094 (C) of 2014 was filed before the Orissa Administrative Tribunal, Cuttack Bench, Cuttack. After its abolition, the same has been transferred to this Court which is renumbered as WPC(OAC) No.3094 of 2014.
 3. The Petitioner was serving as Junior Engineer, ITDA, Karanjia for transfer to Bonai. The said order being cancelled, he was again transferred to Baripada. The allegation of the Petitioner is that frequent order for transfer has caused much hardship to him.
 4. None appear for the Petitioner when the matter is called.
 5. Mr. M.K. Khuntia, learned Govt. Advocate submits that transfer being an incident and essential condition of service, which does not adversely affect the status or emolument or seniority of the employee and it is within the exclusive domain of the employer.

Mr. Khuntia, learned Addl. Govt. Advocate has referred to paras-6.1, 6.2, 6.4 & 6.5 and 6.6. of the counter for better appreciation. The contents of said paragraphs are reproduced hereunder:-

“Para 6.1: No Comments.

Para 6.2: That in reply to para 6.2 it is submitted that Sri Durga Madhab Mishra, Junior Engineer (J.E) belongs to the Engineering Cadre of Department of Water Resources. His services were placed with ST & SC Development Department by the Office of Engineer-in-Chief, Water Resources, Odisha, Bhubanesar vide their Order No. 7530 Dt. 10.06.2011 and he was posted in ITDA Karanjia under ST & SC Development Department vide this Deptt. Office Order No. 21853 Dt. 10.06.2011. On the ground of allegation received against Sri Durga Madhab Mishra, Junior Engineer about his poor performance in ITDA Karanjia, Sri Mishra, J.E. was transferred to ITDA Bonai vice Sri Jamdar Hembram transferred to ITDA Karanjia in this Deptt. Office Order No. 1653 Dt. 13.06.2014 **(Annexure-A)**. But subsequently the transfer of Sri Durga Madhab Mishra, J.E. and Sri Jamdar Hembram, J.E. issued in this Deptt. Office Order No. 16503 Dt. 13.06.2014 was cancelled vide order No. 16820 Dt. 20.06.2014 **(Annexure-B)** with order to allow them to continue in their present place of posting so as to continue Sri Durga Madhab Mishra, J.E. to continue at ITDA, Karanjia as later on the performance of Sri Mishra was reported to be satisfactory **(Annexure-C)**. But when Sri Jamdar Hembram preferred an OA before Hon’ble OAT to continue at Karanjia as because he has already joined at Karanjia on dtd. 19.06.2014,

and after the order of Hon'ble OAT received in this Department, this Department have modified the transfer order accordingly.

Para 6.3: That in reply to para-6.4 and 6.5 it is submitted that Sri Jamadar Hembram, J.E. challenged the order No. 16820 Dt. 20.06.2014 of St & Sc Development Department before the Hon'ble OAT, Cuttack Bench, Cuttack in O.A. No. 1741 (C)/2014. Hon'ble OAT in their Order No. 3 Dt. 25.06.2014 (**Annexure-E**) in the aforesaid O.A. passed order that implementation of the order as at Annexure-3 (Order No. 16820 Dt. 20.06.2014) be stayed till the counter is filed and the applicant be allowed to continue at Karanjia till then as per the order at Annexure-2 (Order No. 877 Dt. 19.06.2014 of PA, ITDA, Karanjia). Pursuant to Order No. 3 Dt. 25.06.2014 of Hon'ble OPAT Cuttack Bench, Cuttack in the aforesaid O.A. filed by Sri Jamdar Hembram and as Sri Hembram, J.E. joined at ITDA, Karanjia on 19.06.2014 in pursuance of this Deptt. Office Order No. 16503 Dt. 13.06.2014, the cancellation order on transfer of Sri Durga Madhab Mishra, J.E. and Sri Jamdar Hembram, J.E. issued in this Deptt. Office Order No. 16820 Dt. 20.06.2014 was withdrawn and Sri Hembram, J.E. was allowed to continue in the present place of posting i.e. in ITDA Karanjia vide ST & SC Development Department Office Order No. 17744 Dt. 5.07.2014 and Sri Durga Madhab Mishra was transferred to ITDA Baripada vide this Deptt. Office Order No. 17745 Dt. 05.07.2014. (**Annexure-F**)

Para 6.6: That in reply to para-6.6 it is submitted that transfer of Sri Durga Madhab Mishra from ITDA, Karanjia to ITDA, Baripada was necessary on administrative exigency as Sri

Jamadar Hembram had already joined at ITDA, Karanjia on being relieved from ITDA, Bonai as well as to implement the order of Hon'ble OAT, Cuttack Bench, Cuttack passed in O.A. No. 1741 (C)/2014. Hence the transfer of Sri Mishra, J.E. has not been made with any malafide intention and the averments made by the applicant is baseless.”

6. In view of the above, the petition relates to transfer, the matter has been rendered infructuous.

7. Hence, the writ petition stands dismissed.

(M.S. Raman)
Judge



Aks