

(2003) 02 OHC CK 0080

In the Orissa High Court

Case No : Original Jurisdiction Case No. 6160 of 2000

Sri Sanjeev Marik

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 13-02-2003

Acts Referred:

Citation : (2003) 02 OHC CK 0080

Hon'ble Judges : B.P. Das, J;B. Panigrahi, J

Bench : Division Bench

Advocate : S.K. Padhi, S. Parida, B. Sahoo and D. Mohapatra, for the Appellant; Additional Government Advocate for O.P. 3 and 4, A.S.C. (Central) for O.P. No. 1 and 2 and S.K. Das and S.R. Jena for O.P. No. 2, for the Respondent

Final Decision : Allowed

Judgement

R.K. Patra, J.—The Petitioner has challenged the order of the Central Administrative Tribunal, Cuttack Bench whereby and whereunder he has challenged the order of transfer effected under the direction of the Office of the Election Commission. By the time, the matter was taken up for final disposal by the Tribunal, the election was over. Therefore, the applicant made a prayer not to attach any stigma for the future career/posting of the Petitioner. The Election Commission neither appeared nor filed their counter before the Central Administrative Tribunal. But, here, after receiving the copy of the writ petition, however, filed their counter whereby they have stated as follows:

The action of the Commission to seek transfer during the election process was purely for administrative reasons and it did not cast any aspersion on the conduct of the said officer. It just wanted to avoid the engaging of a particular officer in the District management of election. Accordingly, the Commission directed the Chief Electoral Officer, Orissa vide its letter dated 6.8.1999 to get the Petitioner transferred from the post of DIG. Berhampur. It is reiterated that the transfer of Sri Sanjeev Marik is not a punishment and does not cast any aspersion on the conduct of the officer.

2. In view of this averment by the Opp. Party No. 2, it cannot be said that such transfer of the Petitioner was made on punitive ground nor can be regarded as a stigma for his future career. Although the ban order of transfer ceased to take effect from 13.5.1997, yet they enforced it in the subsequent years. Once the order has been revoked subsequently, it was not necessary for the authorities to again enforce the same. But it is however, made clear that in case such future exigency comes on administrative ground, it is open to the Election Commission as well as the authorities to pass any suitable order, which they deem fit and proper.

With the above observation, the writ petition is allowed.

B.P. Das, J.

3. I agree.