

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.260/489/2019

Date of Reserve:13.01.2020

Date of Order:14.02.2020

CORAM:

HON'BLE MR.GOKUL CHANDRA PATI, MEMBER(A)
HON'BLE MR.SWARUP KUMAR MISHRA, MEMBER(J)

Ajit Kumar Mishra, aged about 58 years, S/o. Late Sasanka Sekhar Mishra, At/PO-Karilopatna, PO-Patkura, District-Kendrapara – at present working as Station Superintendent (Grou-C), Naraja Railway Station, under East Coast Railway, Naraja, District-Cuttack.

...Applicant

By the Advocate(s)-M/s.P.K.Chand
N.Samal

-VERSUS-

Union of India represented through:

1. The General Manager, East Coast Railway, Chandrasekharpur, Bhubaneswar-751 017.
2. Divisional RailwayManager, East Coast Railway, Khurda Road Division, Jatni, District-Khurda-752 050.
3. Sr.Divisional Operating Manager, East Coast Railway, Khurda Road Division, Jatni, District-Khurda-752 050.
4. Sr.Divisional Personal Office, East Coast Railway, Khurda Road Vivision, Jatni, District-Khurda-752 050.

...Respondents

By the Advocate(s)-Mr.T.Rath
ORDER

PER SWARUP KUMAR MISHRA, MEMBER(J):

Applicant, while working as Station Superintendent at Naraj Railway Station under the Respondent-Railways, on being advised by Respondent No.3, opted for own request transfer in the prescribed proforma. Such a transfer, as averred, could be, conceived in order to minimize transfer allowance and other related benefits concerning transfer. Be that as it may, the applicant submitted his options for own request transfer assigning the reasons for the treatment of his wife at Cuttack in the Regional Spinal Cord Injury Centre, Cuttack with a view to receiving physiotherapy regularly and in this connection, he exercised his option for own request transfer to Cuttack,

Kendrapara Road, Salagaon and Mancheswar. While the matter stood as such, vide order dated 7.6.2019 (A/1), he was posted on transfer to Baguapal (BGPL) on administrative interest, which is 80 kms. away from Cuttack and 117 kms.away from Keonjhar Railway Hospital under which jurisdiction, the stain where he has been posted on transfer comes. Being aggrieved, the applicant submitted a representation to the competent authorities, which has been rejected vide communication dated 10.07.2019 (A/2). Hence, the applicant has approached this Tribunal in the instant O.A. seeking for the following reliefs:

"...to allow the application by quashing the order dated 07.06.2019 passed by the Respondent No.4 & 3 as at Annexure-A/1 & A/2 pertaining to the applicant and to pass further orders as deemed fit and proper in the facts and circumstances of the case".

2. The grounds urged by the applicant in support of his claims for relief are that in order to accommodate another employee at Naraj Railway Station, Respondent No.4, with a mala fide intention has transferred the applicant. According to applicant, whereas about 16 persons have been transferred and posted on their own request, it is discriminatory on the part of the Respondent No.4 not to accede to transfer him to the place of his choice. Although the applicant's wife is suffering from spinal cord injury and he himself is suffering from various ailments, there is no medical facilities available at Baguapal. Hence, the applicant has stated that the action of the Railway authorities is not only arbitrary, but also, smaks mala fide and biased intention behind such transfer.

3. On being noticed, respondents have filed a short reply opposing the prayer of the applicant. According to respondents, the post of Station In-charge of Naraj Station comes under sensitive category as defined in vigilance

guidelines and as such, the staff working in a sensitive post must be rotated after completion of four years and the applicant having completed four years in that particular post as on 5.4.2019, has been transferred in the interest of administration. Administration could not consider his own request transfer application as per the choices given by the applicant inasmuch as there existed no vacancy in the grade and capacity to which the applicant belongs. It has been submitted that the representation submitted by the applicant has been disposed of by the competent authority in pursuance of the direction issued by this Tribunal in O.A.No.403 of 2019 wherein the applicant has been advised that his appeal would be considered when vacancy will arise and as per his seniority and as per the administrative requirement. The applicant has joined at Baguopal on 11.08.2019 by obeying the orders of transfer.

4. We have heard the learned counsels for both the sides and perused the records.

5. Admittedly, the post of Station Superintendent as held by the applicant is a sensitive post and as per Railway Boards' letter dated 18.02.2009, tenure of officials in sensitive posts should be four years. The applicant had also indisputably completed four years at Naraj Railway Station when he was transferred to Bhaguopal. However, the applicant, as submitted by the respondents in their counter-reply, has joined the transferred place at Baguopal on 11.08.2019. In the O.A., the applicant has brought to the notice of this Tribunal a number of documents in support of treatment of his wife. Be that as it may, this Tribunal is not inclined to interfere with the orders of transfer. However, we would leave this matter to the Railway Administration to consider the grievance of the applicant with a humanitarian approach in

keeping with the medical treatment of his wife and take a decision in this regard.

6. With the above observations, this O.A. is dismissed, with no order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER(A)

(GOKUL CHANDRA PATI)
MEMBER(J)

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