

**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA**



O.A/350/185/2020

Date of Order: 11.02.2020

Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. (Ms.) Nandita Chatterjee, Administrative Member

Nani Gopal De, son of Late Gopi Ranjan De, aged about 46 years, residing at 118, Deshbandhu Sarani, Flat No. G-7 Ground Floor, Post Office – Baksara, Police Station – Santragachi, District – Howrah – 711110 and working to the post of Senior Technician under the Senior Section Engineer/OHE/Santragachi, South Eastern Railway, under Senior DEE/TRD/Kharagpur Division.



--Applicant:

-versus-

1. Union of India, service through the General Manager, South Eastern Railway, 11, Garden Reach Road, Kolkata 700 043.
2. The Divisional Railway Manager, South Eastern Railway, Kharagpur Division, Pin 721301, District – West Medinipur.
3. The Senior DEE/TRD/Kharagpur, Kharagpur Division, Pin 721301, District – West Medinipur.
4. The Senior Divisional Personnel Officer, Kharagpur Division, Pin 721301, District – West Medinipur.
5. The Senior Section Engineer/OHE/Santragachi, South Eastern Railway, Santragachi, District – Howrah – 711111.
6. The ADEE/Electrical (TRD)/Santragachi, South Eastern Railway, Santragachi, District – Howrah – 711111.

--Respondents

For The Applicant(s): Mr. P. C. Das, counsel
Ms. T. Maity, counsel

For The Respondent(s): Mr. R. K. Sharma, counsel

O R D E R (O R A L)

Per: Ms. Bidisha Banerjee, Member (J):

Heard ld. counsel for both parties.

2. This OA has been filed to seek the following relief:

“(a) To quash and/or set aside the impugned order of transfer dated 06.08.2019 issued by the Senior Divisional Personal Officer, South Eastern Railway, Kharagpur Division, being Annexure A-1 of this original application against the applicant from SSEE/OHE/Santragachi to SSEE/OHE/Dantan, Paschim Midnapur in violation of the office memo dated 8th October, 2018 issued by the Department of Personnel & Training, New Delhi which was adopted by the Railway Board vide its circular dated 30.01.2019 being RBE No. 15/2019.

b) To quash and/or set aside the impugned release order dated 01.02.2020 issued by the Senior Section Engineer/OHE/Santragachi, South Eastern Railway being Annexure A-4 of this original application without considering your applicant's representation dated 20.01.2020 in terms of the Railway Board's Circular dated 30.01.2019 being RBE No. 15/2019 regarding exemption from the routine exercise of transfer/rotational transfer in violation of the office memo dated 8th October, 2018 issued by the Department of Personnel & Training, New Delhi which was adopted by the Railway Board vide its circular dated 30.01.2019 being RBE No. 15/2019.

c) To declare that the impugned order of transfer dated 06.08.2019 issued by the Senior Divisional Personal Officer, South Eastern Railway, Kharagpur Division is wholly arbitrary and illegal and violates the office memo dated 8th October, 2018 issued by the Department of Personnel & Training, New Delhi which was adopted by the Railway Board vide its circular dated 30.01.2019 being RBE No. 15/2019 and to quash and/or set aside the impugned order of transfer and release order in respect of the applicant.

d) To pass an appropriate order directing upon the respondent authority to quash and/or set aside the impugned order of transfer dated 06.08.2019 being Annexure A-1 and the impugned release order dated 01.02.2020 being Annexure A-4 of this original application and the applicant should be allowed to resume duty to this respective post at Santragachi, South Eastern Railway for proper taking care of his elder son."



3. At hearing, ld. counsel for the applicant would submit that he would be satisfied if a direction is issued to the Respondent No. 2 and 4 to consider his representation dated 20.01.2020, whereby he has prayed for his retention at Santragachi, on the ground that he is a caregiver to his 12 years old son, who is diagnosed with Thalassaemia who needs his support and care.

Ld. counsel would further invite our attention to the medical report in regard to the child, Master Shreyas De, which transpires that the child is suffering from Beta Thalassaemia since the age of 9 months.

4. Ld. counsel for the applicant would submit that in terms of DoPT O.M dated 08th October, 2018, whereby it considers the transfer of a Government employee who serves as the main care giver of persons with disabilities to exempt such employee from routine exercise of transfer/rotational transfer. Ld. counsel would submit that the authority should duly consider his case in the light of the DoPT O.M dated 08th October, 2018 considering the case of the child.

5. Ld. counsel for the respondents submits that he has no objection if such direction is issued to consider his prayer in accordance with law.

6. Accordingly, without entering into the merits of the matter, we dispose of the OA with a direction upon the concerned Respondent no. 2 and 4 or any other competent authority to consider the representation in the light of the DoPT O.M dated 08th October, 2018 and pass appropriate order within 4 weeks from the date of receipt of copy of this order. Till such time, the applicant would not be compelled to join the place of transfer. For the purpose of appropriate consideration by the authorities, the applicant shall forward a copy of the DOPT O.M Dated 08.10.2018 and medical certificate of the child to the authorities within one week from the date of receipt of a copy of this order.

7. The present OA accordingly stands disposed of. No costs.

(Nandita Chatterjee)
Member (A)

(Bidisha Banerjee)
Member (J)

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