CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD
Original Application No. 132 of 2020
This the 25th day of June, 2020

CORAM :
HON'BLE SHRI JAYESH V BHAIRAVIA, MEMBER (J)
HONBLE DR A K DUBEY, MEMBER(A)

Shri Abhishek S/o Shri Jagdishkumar Gupta,
Age: 32 years, Serving as S.S.E./Supervisor/ R.E.,
In the office of the Respondent No.3,
Residing at Quarter No.: 10/E,
Near Savarkundla Railway Station,
Amreli-364515. ... Applicant

By Advocate Shri M S Trivedi

v/s.

(1) The General Manager,
Western Railway, Churchgate, Mumbai – 400 020.

(2) The Principal Chief Electrical Engineer,
Office of PrincipalC.E.E., Western Railway,
Central Organization for R.E., Churchgate,
Mumbai – 400 020.

(3) The Chief Project Manager,
Office of C.P.M., R.E., Western Railway, Ahmedabad – 380 019.

(4) The Chief Workshop Manager,
Office of C.W.M., Western Railway,, Dahod – 389351..

(5) Sr. Divisional Electrical Engineer,
Office of Sr. D.E.E. (T.R.D),
Western Railway, B.V.P.,
Bhavnagar – 364 001. ... Respondents

By Advocate Shri M J Patel

ORDER (ORAL)

Per Dr A K Dubey, Member(A)

1 The instant OA has been filed by the applicant seeking to quash and set aside impugned order dated 06.5.2020 and 11.05.2020 (Annexure A/1 and A/2) issued by respondents transferring (repatriating) the applicant from RE-ADI to TRD under Sr.DEE/TRD-BVP.

2 The fact in brief as stated by the applicant is that he came to be selected as S.S.E by R.R.B in the year 2017. The applicant was appointed as S.S.E in the scale of Rs.9300-34800 + GP Rs. 4600/- and was posted in the office of the respondent no.4. Thereafter, he was posted on deputation on willingness in the office of C.P.M.R.E (ADI), Office of respondent no.3. It is also submitted that vide letter dated 29.04.2020 of the respondent no.3 addressed to the respondent no.2 (Annexure A-3), a proposal was sent regarding transfer of two persons including the applicant by transferring their lien to B.V.P. Division i.e. Respondent No.5. On the basis of said proposal, respondent no.1 had issued the impugned order dated 06.05.2020 regarding transfer of applicant by transferring his lien to B.V.P Division i.e. Respondent no.5. Being aggrieved by the said order therefore, the instant OA.

3 The learned counsel for the applicant, Shri M S Trivedi argued that the lien of applicant was not required to be transferred and that the action of respondents was illegal, arbitrary, unjust and unconstitutional. He further argued that the core issue involved in the grievance of applicant in the present application is whether the respondents were justified in transferring the applicant by transferring the lien from his original unit. He also stated that though Railway Electrification Unit i.e. (Respondent No.3) is a permanent establishment, the unit has no permanent cadre of staff. The functioning of the R.E. is on the basis of transfer on deputation of the employees who are working in other units/divisions like applicant's unit/division. He further states that prior to the impugned transfer, applicant was neither informed nor his willingness/consent was obtained by respondents regarding transfer of his lien. It further stated that applicant

is not against the transfer but is aggrieved by the action of the respondents regarding transfer of his lien to another division which is not their present unit.

4 Applicant had pressed for interim relief and when the matter was first listed on 21.05.2020, status quo qua impugned order was granted, thereafter when the matter came up for hearing on 26.05.2020, the interim relief was modified as the applicant had already been relieved and only transfer of lien was stayed till further order.

5 On receipt of notice, respondents have filed their detailed reply via the E mail. Respondents in their reply have stated that the applicant was never posted under respondent no.4 but was directed to Dahod workshop for training period only vide allotment letter dated 23.03.2017 (Annexure R/1 (Colly) and the workshop was advised to complete pre-recruitment training formalities and direct the candidates to Railway Electrification/Ahmedabad for posting. That applicant was posted as Senior Section Engineer (Elect) and allotted to Railway Electrification/Ahmedabad after completion of successful training vide letters dated 08.09.2018. He also submitted that a panel received from Railway Recruitment Board-Mumbai was allotted to Railway Electrification/Ahmedabad (RE) directly by the Competent Authority and hence the applicant was directly recruited and allotted to RE/ADI.

6 Respondents have further submitted that electrification work of Rajkot and Bhavnagar under RE Divisions was in full swing and work was to be completed within stipulated time and the same being essential services was being monitored by Headquarter office as well as Railway Board and

hence Dahod workshop was advised to complete pre-recruitment formalities and direct the candidates to RE/Ahmedabad for their posting. Therefore applicant was given lien only for training period in Dahod workshop so that the objective of RE work is achieved and the open line gets trained manpower once RE work is completed. Accordingly, as per administrative requirement in TRD unit of Bhavnagar Division, the applicant who was already working in Bhavnagar Division, RE Project under CPD, RE/ADI have been ordered to be posted in TRD unit Bhavnagar Division and the lien was to be maintained under Sr.DEE/TRD-BVP as RE project is almost complete, as per office order dated 04.05.2020 and 06.05.2020 within the provision as per approval of Competent Authority. However, it is seen in para 5 of the reply the respondents have stated "*Transfer of their lien makes no difference to their further career progression, i.e. ADEE. Nevertheless in case, if the applicant wishes to continue his lien in Dahod workshop, that can be considered."* This was reconfirmed by the counsel for respondent during today's proceedings.

7 In view of the submissions of both the learned counsel and also the statement of respondents in reply, in the interest of justice, OA is disposed of with a direction to respondents to consider the instant OA as a representation and take a decision on maintenance of the lien of the applicant at Dahod workshop within four weeks of receipt of copy of this order. There shall be no order as to costs.

(A K DUBEY)
MEMBER(A)

(J V BHAIRAVIA)
MEMBER(J)

abp