

Central Administrative Tribunal
Cuttack Bench

Pre-delivery Order in OA No.7/2015 is sent herewith for consideration please. If agreed, kindly pronounce it on behalf of the Bench.

With regards,



(Pradeep Kumar)
Member (A)
15.01.2021

Hon'ble Mr. Swarup Kumar Mishra, Member (J)

**Central Administrative Tribunal
Cuttack Bench, Cuttack**



OA/260/7/2015

Order reserved on : 13.01.2021
Order pronounced on: .01.2021

(Through Video Conferencing)

HON'BLE MR. PRADEEP KUMAR, MEMBER (A)
HON'BLE MR. SWARUP KUMAR MISHRA, MEMBER (J)

Srikant Kumar Tripathy, aged about 30 years,
Son of Kailash Chandra Tripathy,
At present working as a Senior Clerk,
Office of Senior DPO/E.Co.Rly.,
Khurda Road Division,
At/P.O.-Jatni, Dist.- Khurda,
Permanent resident of
Vill.-Jagannathpur Sasan,
P.O. Dharakote,
Dist.-Ganjam-761107, Odisha.

... Applicant

(By Advocate: Sh. N.R.Routray)

VERSUS

1. Union of India, represented through
The General Manager,
East Coast Railway,
E.Co.RSadan,
Chandrasekharapur, Bhubaneswar,
Dist. Khurda.



2. The applicant is aggrieved that he has come on inter-Railway transfer by losing his seniority to work in one of the four places as mentioned in his inter-Railway transfer request (supra). Since the posting order given by East Coast Railway was to a different place namely Sambalpur Division, the applicant did not join there and submitted his representation.

The first representation was to Chief Personnel Officer submitted on 23.01.2014 to post him at one of the four places as indicated in his application. Since there was no decision, he submitted the second representation to the General Manager on 03.02.2014. Thereafter, he was posted to Khurda Road Division vide orders dated 18.02.2014. This is one of the four places indicated by the applicant and he joined there w.e.f. 19.02.2014.

3. The East Coast Railway has treated the period upto 17.01.2014 as waiting for duty (that is the time when the first posting order for Sambalpur was issued by East Coast Railway). However, the period from 18.01.2014 to 18.02.2014 (when the second posting order was issued to Khurda Division on East Coast Railway), has not been

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treated to be waiting for orders. This grievance has been ventilated in this OA.

The applicant is aggrieved that since he came on inter-Railway transfer on his own request by losing seniority as well as many other benefits, which are normally available on administrative transfer, he ought to have been posted to one of the four places only and since such an order was issued on 18.02.2014, the period from 18.01.2014 to 18.02.2014 also needs to be treated as waiting for duty. Since this request of the applicant has not been agreed to by the respondent – Railway, he has preferred the instant OA.

4. Per contra, respondents opposed the OA. It was pleaded that the standard format signed by the applicant on 15.01.2013, while applying for Inter Zonal Transfer Request has a clause, which reads as under:

“3. I am willing to carryout the transfer to Division/Railway on the terms and conditions stipulated by the Railway Board in their letter no. dated 10.05.95 and No.E(NG)655R6/P dated 01.12. for transfer from the railway unit to another on personal request.

4. I am willing to be posted anywhere on the Division/Railway.”

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considered for posting there in the first instance and instead he was posted to SBP.

In reference to this averment, the respondents pleaded that one vacancy did exist at Khurda Road but there were many other candidates with own request transfers and administration had to take a view and in keeping with the exigency of situation at that point of time, it was not feasible to post the applicant at Khurda Road. Subsequently, when it became feasible, he was posted to Khurda Road.

9. The respondents further drew attention that the applicant is on a transferable job and even though the administration do make efforts to accommodate the employee, however, at all points of time, this may not be feasible including in the case of inter-Railway transfer on own request.

10. Matter has been heard at length. Sh. N.R.Routray, learned counsel, represented the applicant. Sh. D.K.Mohanty, learned counsel, represented the respondents.

A handwritten signature in blue ink, appearing to read 'Rakesh Kumar', is written over the bottom right of the text in paragraph 10.



11. It is admittedly a case of own request transfer from one seniority unit (SWR) to the other seniority unit (ECOR). In such cases, the rules provide that the employee coming on own transfer request, has to forego his seniority and many other benefits. The standard format for such inter-Railway transfer also indicates that the applicant had consented for his posting anywhere on the East Coast Railway, as brought out in para 4 above. The averment by the applicant that he has an inalienable right to be posted at only one of the four places, as indicated by him, is not acceptable. Actual posting will always depend on exigencies even though Administration may keep employee's request in view.

12. By the applicant's own averment, he was under medical treatment and could not report at Sambalpur (para 6 supra). In such circumstances, the contention by the applicant that he is required to be treated as "waiting for orders" during the period from 18.01.2014 to 18.02.2014, at par with earlier period upto 18.1.2014, is not acceptable. The period upto 18.1.2014 was one when his posting order was not issued, whereas posting order was issued on 18.1.2014, even though not to his liking. It needs to be

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recalled here that the applicant is on a job that is transferrable in exigencies of service.

It is another matter that he could not perform duty in said period, despite existence of a posting order, since he was under medical treatment. Under such situation, he could have applied for leave of appropriate kind for sanction. It is not known whether such an application was made. It is upto the applicant whether he opts to apply for it now.

13. In keeping with above, there is no merit in the OA. The same stands dismissed. No costs.

(**Swarup Kumar Mishra**)
Member (J)


(**Pradeep Kumar**)
Member (A)

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2. Chief Personnel Officer,
East Coast Railway,
E.Co.RSadan,
Chandrasekharpur, Bhubaneswar,
Dist. Khurda.

... Respondents

(By Advocate: Sh. H.K.Tripathy)

ORDER

Hon'ble Shri Pradeep Kumar Member (A)

The applicant herein was working as Senior Clerk on South Western Railway. He applied on 15.01.2013 for inter-Railway transfer to East Coast Railway. He indicated that he may be posted to either headquarters office or Khurda division or Waltair division or Mancheswar workshop under East Coast Railway. Such requests are required to be submitted on standard format.

This request was agreed to in due course and he was relieved by South Western Railway on 23.12.2013 to report to East Coast Railway. He reported to Chief Personnel Officer East Coast Railway for further orders on 30.12.2013. His posting order to Sambalpur Division (SBP) was issued on 17.01.2014.

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5. Further, when the applicant was transferred to Sambalpur Division, neither did he go and join there and represent thereafter if he had a grievance nor did he report back to the headquarter office bringing out his grievance. During this entire time period, he was absent from official duties.

6. It was further brought out that the applicant submitted a handwritten application on 23.01.2014, wherein a specific averment was made as under:

“Item 5 – Thereafter, so far I have not joined in SBP as my health condition did not permit me and I am under treatment.”

7. Keeping in view this admitted averment by the applicant, it was necessary for him to submit an application for sanction of leave to take care of his medical treatment. In the event, he has neither submitted any leave application nor performed any duties anywhere. Accordingly, his claim to be treated as waiting for orders, thereby being paid full salary, is not justified.

8. The applicant has also pleaded that a vacancy existed at Khurda Road and despite this, the applicant was not

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