

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 040/00114/2020
 With
 Misc. Application No. 040/00046/2020

Date of Order: This, the 22nd day of July 2020

THE HON'BLE SMT. MANJULA DAS, MEMBER (J)

THE HON'BLE MR. NEKKHOMANG NEIHSIAL, MEMBER (A)



Sri Prem Prakash Pandey, son of Shri G.S. Pandey, presently resident of Railway Campus, MSRTC Complex, Moirangkhong, Imphal, Manipur – 795001.

...Applicant

By Advocates: Sri U.K. Nair, Sr. Adv. & Ms. N. Shyamal

-Versus-

1. The Union of India, represented by the Secretary, Railway Board, Ministry of Railways, Government of India, New Delhi – 110006.
2. The Railway Board, represented by its Secretary, Ministry of Railways, Government of India, New Delhi – 110006.
3. The General Manager, N.F. Railway, Maligaon, Guwahati – 781011.
4. The General Manager (Construction), N.F. Railway, Maligaon, Guwahati – 781011.

...Respondents.

By Advocate: Ms. U. Das, Railway SC.

ORDER

NEKKHOMANG NEIHSIAL, MEMBER (A):-

This case has been filed by the applicant on 03.06.2020 in connection with his grievance against the change of initial assignment on his promotion to SAG from Construction Organization to Open Line. Accordingly, he prayed the following reliefs:-



"8.1 To set aside and quash the impugned order dated 21.05.2020 (Annexure-A/1) along with consequential order dated 01.06.2020 (Annexure-A/2)

8.2 To set aside and quash the communications dated 13.02.2018 (Annexure-A/3) and 14.03.2018 (Annexure- A/4).

8.3 To direct the respondent to forbear from giving effect to the impugned order dated 21.05.2020 (Annexure-A/1) and also the communication dated 13.02.2018 (Annexure-A/3) and 14.03.2018 (Anneure-A/4).

8.4 To direct the respondent authorities to post the applicant to the Construction Organization in-terms of the order dated 08.01.2020 (Annexure – A/14) as Chief Engineer with retrospective effect with all consequential benefits of seniority and pay.

8.5 Cost of the application.

8.6 Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and as may be deemed fit and proper by this Hon'ble Tribunal upon consideration of the matter."

2. Initially vide order dated 08.01.2020, the applicant was transferred from Dy. CE/CON/I/Imphal on promotion to Officiate in SA Grade and posted in Construction Organization, Guwahati. This has been subsequently modified by the respondent authorities vide their order dated 21.05.2020 and another order No. 15/2020 (Engg) dated 27.05.2020 in the Open line vice Shri J.P. Singh.



3. The respondents filed their compliance of order dated 08.06.2020 on 18.06.2020 producing copies of orders. They also contended that the applicant has completed more than three years in Construction Organization as Dy. CE/Con/I/Imphal and the present order is on promotion and not transfer.

4. During the argument and hearing, Sri U.K. Nair, Sr. Advocate assisted by Ms. N. Shyamal, appearing on behalf of the applicant submitted that this decision of changing the assignment of the applicant by the respondent authorities from Construction Organization to the Open Line has been due to their prejudice perception against the applicant in connection with some alleged mistakes/lapses in his previous posting as communicated vide letters dated 13.02.2018 and 14.03.2018 which have already been challenged before this Tribunal vide O.A. No. 153/2018 and

already set aside. As such, the decision of the respondent authorities for changing the initial posting of the applicant from Construction Organization to Open Line is against the principle of natural justice and not tenable.

5. Sri Nair also displayed the copy of the order of imposition of some penalties on the applicant in connection with the previous lapses. As such, this change of assignment is highly prejudiced against the applicant. He also demanded that original records wherein the decisions have been made by the respondent authorities in this connection should be submitted to this Tribunal and after going through the records, this Tribunal may make fair decision in this regard.



6. The case was finally heard on 19.06.2020. Accordingly, respondent authorities were directed to make available to Registry a copy of the original records for perusal and scrutiny. Accordingly, these original records have since been submitted. We have gone through the said original records carefully. It is seen from the records that the applicant was initially transferred vide Railway Board's order dated 28.11.2019 (SN-89) to officiate in SA Grade and posted in the cadre on the Railway itself. This order similar other 31 officers promoted in that order. On 04.12.2019, an

Office Note was put up by OS/EO indicating amongst others that one post of SAG was vacant in open line. However, it was suggested by Dy. CPO/GAZ that Shri P.P. Pandey, Dy. CE/Con in SAG may be posted in Construction Organization in consultation with GM/Con. This was routinely endorsed by PCE and was subsequently by the GM, N.F. Railway. Accordingly, an order dated 08.01.2020 was issued for his posting to Construction Organization in SA Grade. However, the General Manager, N.F. Railway (Cons.) vide his letter dated 09.01.2020 addressed to the General Manager, N.F. Railway, Maligaon pointed out that as per the existing policy, posting of the officer to the Construction Organization is required to be done in consultation with GM/Construction Organization. Moreover, the General Manager, N.F. Railway (Cons.) mentioned that Sri B.S. Meena, CE/CON-III/MLG who was handing the project between Jalpaiguri to Haldibari in January, 2020 and Doubling from Dhupguri Kolaigaon as per Board's target, to be completed by March 2020 and officer Shri Meena could not be spared till March, 2020.



7. Subsequently, another Office Note was initiated by the Pr. Chief Engineer on 22.05.2020 proposing that Sri P.P. Pandey, Dy. CE/CON-I/Imphal may be posted as

CE/W/MLG vice J.P. Singh. Accordingly, an office order No. 15/2020 (Engg) dated 27.05.2020 was issued by the Chief Personnel Officer (GAZ) changing the assignment of the applicant from the previous order of Construction Organization in to Open Line. As per the grievance of the applicant, these changes have been made on the basis of prejudiced view against him as contained in the letters referred to i.e. 13.02.2018 and 14.03.2018 respectively.



8. We have carefully gone through the records once again. As broadly narrated above, we don't see any mention of the above two letters in taking the decision for changing the assignment of the applicant from Construction to Open Line. We also don't see any direction from the Railway Board to this effect. The letter of Member (Engineering) dated 09.03.2020 was general instruction in nature regarding periodical interchange of the assignment of the officers and optimum utilization of machines and materials etc. Keeping in view of the above, we found that the allegation of the applicant for changing his assignment was due to prejudiced view by the respondent authorities is not borne out by facts on records. It is also observed that the applicant has already completed his normal tenure of more than three years in the Construction in Imphal. As such, we

don't see any reason to interfere with the impugned order dated 21.05.2020, dated 27.05.2020 along with consequential order dated 01.06.2020. The O.A. is found devoid of merit and liable to be dismissed. Accordingly, the O.A. is hereby dismissed.

9. Consequently, M.A. No. 040/00046/2020 for staying the operation of the order dated 03.06.2020 is also hereby dismissed.



10. There shall be no order as to costs.

(NEKKHOMANG NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)

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