

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/00140/2021

HYDERABAD, this the 23rd day of February, 2021

Hon'ble Mr. Ashish Kalia, Judl. Member

Hon'ble Mr. B.V. Sudhakar, Admn. Member



Abdul Rawoof S/o Abdul Rahman (Group C),
Aged 54 years, Occ : Chief Travelling Ticket Inspector,
South Central Railway, Guntakal Division,
Guntakal, Ananthapur District, AP.

...Applicant

(By Advocate : Mr. G. Trinadha Rao)

Vs.

1. Union of India Represented by
The General Manager,
South Central Railway, Rail Nilayam,
3rd Floor, Secunderabad – 500 025.
2. The Principal Chief Personnel Officer,
South Central Railway, Rail Nilayam,
4th Floor, Secunderabad – 500 025.
3. The Divisional Railway Manager,
South Central Railway, Guntakal Division,
Guntakal, Ananthapur District, AP.
4. The Divisional Railway Manager,
South Central Railway, Secunderabad Division,
Secunderabad, A.P.

....Respondents

(By Advocate : Mr. S. M. Patnaik, SC for Railways)

ORAL ORDER
(As per Hon'ble Mr.B.V.Sudhakar, Administrative Member)

Through Video Conferencing:



2. The OA is filed challenging the letter of the 2nd respondent dt. 02.02.2021 rejecting the applicant's case for transfer back to Secunderabad Division.

3. Brief facts of the case are that the applicant is working as Chief Travelling Ticket Inspector in Guntakal Division of the respondents organization and while he was working as Travelling Ticket Inspector, an inter-divisional transfer was issued vide letter dated 26.8.2014 due to a vigilance case, whereby he was transferred from Secunderabad to Guntakal. The vigilance case gave way to disciplinary proceedings, which resulted in imposition of the penalty of reduction of the grade pay from Rs.4200 in PB-2 of Rs.9300-34,800 to GP Rs.2400 in PB-1 of Rs 5200 -20,200 for a period of 6 months. The currency of the punishment was over on 1.7.2016 and the grade pay of Rs.4200 was restored. Thereafter, several representations were submitted to the 1st respondent for retransfer to Secunderabad Division and there being no relief, OA 1101/2018 was filed and during the pendency of the OA, applicant was informed on 06.11.2018 that his case will be examined on or after 03.12.2019 in accordance with Railway Board letter dated 23.10.2006. Accordingly, the said OA was dismissed as withdrawn with liberty to file fresh OA by Tribunal order dated 7.1.2019. However, the 2nd respondent has rejected the request for retransfer on 2.2.2021 and hence the OA.

4. The contentions of the applicant are that the impugned proceedings dated 2.2.2021 are contrary to the commitment given by the respondents vide letter dated 6.11.2018 and also against rules as well as law. Having given the commitment to consider on or after 3.12.2019, respondents are estopped from rejecting the case of the applicant. The basis of transfer of the applicant to Guntakal, no more exists. The juniors to the applicant have been promoted in Secunderabad Division prior to his promotion, but he has not been promoted, though the penalty does not have such a clause.



5. Heard both the counsel and perused the pleadings on record.

6. I. The dispute is about retransfer of the applicant from Guntakal to Secunderabad Division, which is his parent Division. In view of a disciplinary case, applicant was transferred to Guntakal Division on administrative grounds. The issue came up before the Tribunal in OA 1101/2018 which was withdrawn on receipt of the letter dated 6.11.2018 of the respondents. The letter dt. 06.11.2018 refers to Railway Board instructions wherein it is stated that employees who have been transferred on administrative grounds to a different Division, can be considered for retransfer after 6 years by the GM. The relevant paras of the said letter are extracted here under:

“In accordance with the Railway Board’s letter No.E(NG)I-2004/TR/22, dated 23.10.2006, Board have decided that request for transfer by the staff who were earlier shifted to another division on administrative grounds/ vigilance grounds may be considered subject to acceptance of General Manager. The request will be considered only after completion of a minimum of 6 years in the existing Division.

In pursuance of above instructions, you have joined the existing Division (GTL Division) on 03.12.2014, your request for repatriation back to SC Division will be examined only on or after 03.12.2019,

*subject to fulfillment of other terms and conditions of repatriation.
Please acknowledge the receipt.”*



II. Thus, the case of the applicant requires examination as per Railway Board letter dated 23.10.2006. The Ld. Counsel for the applicant prayed for disposal of the OA in the light of the Railway Board decision cited, which was fervidly opposed by the Ld. Counsel for the respondents and he prayed for filing a reply. However, as is evident from the letter, it is the discretion of the GM to take a decision on the matter. The vigilance had given their clearance as is seen from the respondent letter dated 17.6.2020. The penalty is over by 16.6.2016 and his pay was restored on 01.07.2016. Hence, the applicant would be eligible for retransfer on in June 2022 as per respondents letter dated 2.2.2021. Except for this aspect there is nothing much to adjudicate upon. Moreover, it is a matter pertaining to transfer, wherein the Tribunal would intervene in rare cases involving malafide intentions or violations of guidelines. In the instant case, the GM has to take a decision in the light of the letter under reference/ any latest instructions and the role of the Tribunal is limited. Besides, the issue of promotion of juniors prior to the applicant's promotion was also raised, which requires a closer look in the background of the extent rules of the respondents organization.

III. Hence we direct the 1st respondent i.e. the GM to take a decision on the request of the applicant for retransfer/ promotion on par with juniors, keeping in view any latest instructions on the matter and in

accordance with law, within a period of 8 weeks from the date of receipt of this order by issuing a speaking and reasoned order.

With the above direction, the OA is disposed of, with no order as to

costs.



(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

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