

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NUMBER 1347 OF 2004
ALLAHABAD, THIS THE 16th DAY OF NOVEMBER 2004

HON'BLE MR. JUSTICE S.R. SINGH, VICE-CHAIRMAN
HON'BLE MR. D. R. TIWARI, MEMBER (A)

1. Goverdhan Prasad s/o Shri Prahalad,
aged about 52 years.

2. Sunder Lal s/o Shri Sahebdeen,
aged about 52 years.

Both are working as Permanent Way Mate
Grade Rs.3050-4590/- under the Dy. Chief
Engineer/Construction, North Central Railway,
Kanpur.

.....Applicants

(By Advocate : Shri S.S. Sharma)

V E R S U S

1. Union of India through the General Manager,
North Central Railway, Headquarters Office,
Allahabad.

2. The General Manager,
North Central Railway, Headquarters Office,
Allahabad.

3. The Chief Administrative Officer/Construction,
North Central Railway, Headquarters Office,
Allahabad.

4. The Chief Engineer/Construction(North)
North Central Railway, Headquarters Office,
Allahabad.

5. The Divisional Railway Manager,
North Central Railway, D.R.M. Office,
Nawab Yusuf Road, Allahabad.

6. The Dy. Chief Engineer/Construction,
North Central Railway, Kanpur.

....Respondents.

(BY Advocate : Shri A.K. Gaur)

O R D E R

By Hon'ble Mr. Justice S.R. Singh, V.C.

Heard Shri S.S. Sharma counsel for the applicants and

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Shri A.K. Gaur counsel for the respondents.

2. The applicants, an ad-hoc Mate in the Gr. of Rs.3050-4590/- (RSRP) under Dy. Chief Engineer/C/CNB, has been transferred and repatriated to his parent division vide impugned order dated 30.06.2004 passed by Chief Engineer/Construction, North Central Railway, Allahabad.

3. It is not disputed that a deputationist can be repatriated to his parent department at any time for he has no right to continue on deputation post. However, it cannot be gainsaid that every Governmental action must conform to the requirements of Article 14 of the Constitution. Discretionary power ought not to be exercised arbitrarily and without any reasons. In the instant case that the allegation is that the applicants have been singled out for repatriation due to the reasons that they had earlier approached the Tribunal for regularisation in the borrowing department but their original applications were dismissed and that is why the competent authority was annoyed with the applicant and the order of repatriation has been passed without any legitimate justification. The case of the applicant is that the posts on which the applicants have been working on deputation have not been abolished and the parent department of the applicants never demanded the applicants back from deputation. The Chief Engineer, it is submitted by the applicant, has illegally and arbitrarily singled out the applicant out of 7 mate working on ad-hoc basis on deputation and having their lien of Gangman in open line.

4. Shri A.K. Gaur counsel for the respondents on the other hand submits that applicants have no right to continue on deputation for indefinite period and the borrowing department can repatriate the deputationist at any time. It is further submitted that the officers against whom allegations

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of malafide have been made, have not been impleaded by name and therefore, the plea of malafides can not to be entertained. Counsel for the applicant cited two decisions: one in the case of K.H. Phadnis Vs. State of Maharashtra reported in AIR 1971 SC 998 and the other in the case of K.S. Panicker Vs. Union of India & Ors. reported in ATJ (I) 1996 168 in support of his contention that order of repatriation passed arbitrarily is liable to be interferred by the Tribunal.

5. Having heard counsel for the parties and having regard to the facts and circumstances of the case that applicants have already preferred a representation for redressal of their grievances and 6 months stipulated period have not expired, we are of the view that it would meet the ends of justice if the respondents are directed to decide the representation after proper self directions to the averments made in the representations and the decisions aforesated.

6. Accordingly, this O.A. is disposed off at the admission stage itself with direction to Chief Engineer, N.C. Railway, Allahabad to consider and disposed off the representations of the applicants by passing a reasoned and speaking order within a period of 6 weeks from the date of receipt of a copy of this order.

7. There shall be no order as to costs.


Member (A)


Vice-Chairman

shukla/-