

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH: ALLAHABAD.

ALLAHABAD, THIS THE 6th DAY OF OCTOBER, 2005.

QUORUM : HON. MR. K.B.S. RAJAN, J.M.

HON. MR. A. K. SINGH, A.M.

ORIGINAL APPLICATION NO.280 OF 2005

Puran Singh Bisht, Son of Shri Kharak Singh Bisht, aged about 44 years, working as Assistant Personnel Officer, N.C. Railway, HQ Office, Allahabad, R/O 103-A, Railway Officer's Rest House, Rajapur, Allahabad.

..... Applicant.

Counsel for applicant : Shri Sudama Ram.

Versus

1. Union of India through General Manager, North Central Railway, Allahabad.
2. Chairman, Railway Board, Rail Bhawan, New Delhi.
3. Secretary, Establishment (Gazetted) Railway Board, Rail Bhawan, New Delhi.
4. Adviser Staff, Railway Board, Rail Bhawan, New Delhi.
5. General Manager, N.C. Railway HQ Office, Allahabad.
6. Chief Administrative Officer, Diesel Loco Modernization Works, Patiala.


..... Respondents.

Counsel for Respondents : Sri P. Mathur.

ORDER (Oral)

HON. MR. K.B.S. RAJAN, J.M.

By this O.A., the applicant has sought the following reliefs :-

- "I) The Hon'ble Tribunal may graciously be pleased to direct the respondents either absorb the applicant in N.C. Railway by giving lien and with full seniority benefits and to direct the respondents to repatriate the applicant before 31st March, 2005 i.e. before beginning of the next academic session of the children.
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- II) The Hon'ble Tribunal may be pleased to direct the respondents to allow the applicant to retain the Railway accommodation at his previous place of posting at normal rent till his repatriation or absorption.
- III) Any other writ order or direction which the Hon'ble Tribunal deems fit and proper in the circumstances of the case may also kindly be issued in the interest of justice."

2. The applicant, who was working as Assistant Personnel Officer, Group 'B' at Patiala, was on administrative grounds shifted to Allahabad. Though originally he was given to understand that his lien was also shifted, specifically by another order, it was made clear that his lien was kept at Patiala. At the time when the applicant was posted at Allahabad, the new Zonal Railway (NCR) was not formed. The applicant was under impression ~~that~~ at the time when options were called, ^{that is} there was no need for him to specifically give his option as his posting at Allahabad was under the orders of the precedence. However, it was a day after the last day for option that he was given to understand that his lien was retained at Patiala.

3. The applicant has made representations to the department either to take him on the strength of North Central Railway securing the seniority position or he be repatriated. As the respondents had not ^{accorded to} ~~decided~~ the same, this application has been filed.

4. For the purpose of consideration of the interim relief, the original records have been called for. Counsel for the respondents in addition to have proceedings the original records has also made available the presence of Shri A.K. Singh, Under Secretary, Railway Board to explain the sequence of events, *who has rendered his valuable assistance.*

5. The grievance of the applicant as taken out, was that he has not been absorbed in the North Central Railway

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nor he is being repatriated. According to him since he is maintaining family at Patiala he possesses lot of domestic problems with him. He has also submitted that when he requests for grant of leave to attend the court cases, he is being denied the same also.

6. We have perused the records produced by the respondents. A detailed note was put up in June, 2004 both in respect of applicant's request for being absorbed in N.C.R.^{or repatriation w} These two, for administrative reasons, could not be acceded to. At the same time, the Railway Board has fully appreciated the fact that if the applicant at D.M.W., Patiala is found suitable for promotion to senior grade then he should be allowed ad-hoc senior scale while continuing in N.C.R. in administrative interest as a special case.

7. The above decision, however, was not communicated as in all probability the respondents should have ^{by now} got it to be pre-matured.

8. In the Government service, transfer is an incident of service and a number of judgments of the Apex Court clearly pointed out the fact that the employer has every right to decide as to who is to be posted at which place. In the instant case, a perusal of the record produced by the counsel for respondents, gives sufficient justification for the posting of the applicant outside Patiala. Retention of his lien at Patiala would protect his interest in as much as he shall be considered for promotion to the higher post in accordance with law treating him as a part and parcel of Patiala unit. As such by virtue of his non-presence at Patiala, he shall not be deprived of promotion. And in order to enable him to reap the fruits of promotion as and when available, the Board at the highest level has decided that in case of such promotion, he would be allowed ad-hoc senior scale while continuing in N.C.R. in administrative interest as special case.

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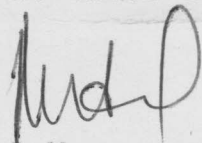
9. The above decision appears just and fair and no vested right of the applicant is hampered.

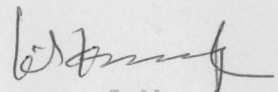
10. Counsel for the applicant, however, submitted that he would be kept in a position of uncertainty as to when he will be posted back to Patiala. Already a few ~~years~~ ^{years} ~~months~~ have have passed since his posting at Allahabad on administrative ground. We expect that the authorities may review the situation at periodical intervals (once in six months) and once it is felt that situation at Patiala came to normalcy, the applicant's option may be obtained for repatriation to Patiala. Till then, the applicant shall be allowed to continue in the accommodation allotted to him at Patiala and in case of repatriation, it may be so adjusted that the children's education of the applicant does not suffer.

11. In respect of rent to the accommodation, the applicant shall move a proper representation for charging of normal rent and maximum concession available as per rules may be granted if need be by relaxation of the rules.

With this the O.A. is disposed of.

No order as to costs.


A.M.


J.M.

Asthana/