

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH

LIBRARY

O.A.350/819/2019

Date of Order: 22/1/2021



Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Mr. Tarun Shridhar, Administrative Member

Ritwik Basu,
Son of Sibaji Basu,
Aged about 32 years,
Working as Porter under SMR-1/Midnapore,
(Operating Department),
Residing at Village and Post Office – Dakshin
Gobindapur, District – 24 Parganas,
Pin – 700145, West Bengal.

.....Applicant

Vrs.

1. Union of India,
through The General Manager,
South Eastern Railway,
Garden Reach Road,
Kolkata – 700 043.
2. The Divisional Railway Manager,
South Eastern Railway,
P.O. – Kharagpur,
District – Paschim Mednipore
Pin – 721301.
3. The Senior Divisional Personal Officer,
South Eastern Railway,
Post Office – Kharagpur,
District – Paschim Mednapur,
PIN – 721301.
4. The Senior Divisional Commercial Manager,
South Eastern Railway,
P.O. – Kharagpur,
District – Paschim Medinapore,
PIN – 721301.
5. The Senior Divisional Personnel Officer,

Eastern Railway,
Sealdah – 700014.

.....Respondents

For the Applicant(s): Mr. A.Chakraborty & Ms. P.Mondal, Counsel

For the Respondent(s): Ms. D.Ghosh Dastidar, Counsel



ORDER

Tarun Shridhar, Administrative Member:

By filing this O.A., the applicant seeks the following relief:

"8.(a) Speaking Order no. SER/P-KGP/ET/223/14/RB-SM/2019 dated 13.06.2019 issued by the Asstt. Personnel Officer-III, Senior Divisional Personnel Officer, S.E. Rly, KGP, cannot sustained in the eye of law and therefore the same may be quashed."

2. For the sake of clarity the Order No. SER/P-KGP/ET/223/14/RB-SM/2019 dated 13.06.2019 quoted above is being reproduced below:

"The joint appeal of Sri Ritwik Basu, Ex-PM-B (Presently working as Jr. CC/HAU of KGP Divn and Sri Sandip Mahanta, Porter of Sealdah Divn/E.Rly dtd, 20/22.04.2019 towards cancellation of their Inter Railway Mutual Transfer has been put to the Competent Authority Viz, DRM/KGP and who has passed the following remarks:-

"Backtracking not allowed".

As such it is requested to release Sri Ritwik Basu, Jr. CC working under SMR/HAU on reversion as PM-B with direction to report to this office for his final sparing to DRM(P)SDAH Divn/ E. Rly to materialise the above IRMT without further delay."

3. The applicant, while posted as a Porter made a representation on 25.05.2014 for inter-railway mutual transfer with one Shri Sandip Mahanta. This application kept lying pending with the concerned authority. Meanwhile, on 22.01.2019, the promotion of the applicant was ordered to the post of Jr.

(Signature)

Commercial Clerk. Since he had been promoted to a higher post, he made an application that his request for mutual transfer may please be cancelled. At this stage, the impugned order was issued stating that "backtracking not allowed".



Ld. Counsel for the applicant submits that the request for mutual transfer was not acted upon for a good four and a half years by the respondents and it is only once the applicant made a fresh communication requesting for cancellation of his request did the authorities take notice of this application and declined the request on an unreasonable premises that such withdrawal is not required completely ignoring the fact that by now the applicant had been promoted and hence his position and circumstances had changed. Even the long period of four and a half years was not considered while acting upon his old request and ignoring the latest one.

4. Ld. Counsel for the respondents, on the other hand, would draw attention to a letter dated 21.04.2006 from the Railway Board, annexed with her reply as Annexure-R/1, which states that "no request for backtracking from mutual transfer will be entertained under any circumstances".

5. No doubt, the letter quoted by the Ld. Counsel for the respondents and annexed to the reply is making a categorical statement that backtracking is not allowed, however, the respondent authorities also need to relook into the system wherein the request is lying pending for four and a half years without any action. It is absurd that instead of correcting their inaction, they seek to penalize the applicant who would face double jeopardy by getting transferred and losing his promotion. If the 2014 application is acted upon now, a good six years from the date would have lapsed and that included two years' time since a request for

10

withdrawal was made. It is least to say that the position taken by the respondents is highly unreasonable and unjust.

6. Accordingly, the O.A. is allowed and the impugned order No. SER/P-KGP/ET/223/14/RB-SM/2019 dated 13.06.2019 is quashed. No costs.



(Tarun Shridhar)
Member (A)

(Bidisha Banerjee)
Member (J)

RK