

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH



OA 350/1056/2020

Date of Order: 11.11.2020

Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member



Prahlad Kumar Prasad,
Son of Late Muneshwar Prasad,
Residing at 94/A, Lala Babu Shire Road,
Belur Bazar,
PO. Belur Math,
PS. Belur,
District Howrah- 711202.

.....Applicant

Vrs.

1. Union of India
Service though the General Manager,
Eastern Railway,
17, N.S. Road,
Fairlie Place,
Kolkata – 700001.
2. The Principal Chief Personnel Officer,
Eastern Railway, Kolkata,
Having its office at Fairlie Place,
17, N.S. Road,
Kolkata – 700001.
3. Divisional Railway Manager,
Sealdah Division,
Eastern Railway,
Sealdah,
Kolkata – 700014.
4. Sr. Divisional Personnel Officer,
Sealdah Division,
Eastern Railway,
Sealdah,
Kolkata – 700014.
5. Sr. Divisional Commercial Manager,
Sealdah Division,
Eastern Railway,

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Sealdah,
Kolkata – 700014.

.....Respondents

For the Applicant(s): Mr. S.K.Datta & Mr. B.Chatterjee, Counsel

For the Respondent(s): Mr. K.Sarkar, Counsel



ORDER (Oral)

Bidisha Banerjee, Member (J):

The applicant, who is Chief Inspector Tickets, is aggrieved due to his transfer from Sonarpur to Krishnanager by an order dated 19.06.2019 issued by the DPO under the authority of Sr. DPO, E.Railway, Sealdah. The applicant has alleged that the transfer was issued while he was on suspension, which is not legally permissible ~~as a Railway employee~~, as the headquarter of the railway employee cannot be changed while he is on suspension and he cannot be transferred to a different location.

2. It transpires from the records that the applicant was chargesheeted on 01.08.2019 and the suspension order dated 18.06.2019 was revoked on 13.08.2019 after issuance of the chargesheet dated 01.08.2019. Therefore, the transfer ordered on 19.06.2019 was effected during the period of his suspension. However, it also transpires from the records that the suspension order has been revoked and the applicant has been directed to proceed to the new place of posting. On 29.08.2019 he preferred a detailed representation to the following officers:

1. The Principal Chief Personnel Officer,
Eastern Railway.
2. Divisional Railway Manager,
Sealdah Division, Eastern Railway.

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3. *Sr. Divisional Personnel Officer,
Sealdah Division, Eastern Railway.*
4. *Sr. Divisional Commercial Manager,
Sealdah Division, Eastern Railway."*

He even preferred an O.A. 1319/2019, which was disposed of with a direction upon the Sr. DCM, Sealdah Division, to examine the contents of the representation and issue a reasoned and speaking order in accordance with law. Pursuant thereto, speaking order has been issued by the Sr. DCM and communicated by ACM/CP vide order dated 05.10.2020. The speaking order records that the transfer order dated 19.06.2019 could not be served on the applicant as he had submitted a sickness report (PMC) through Speed Post on 19.08.2019. He was granted a personal hearing by the DRM where he cited his personal illness and on that ground he sought exemption from the transfer. The transfer was ordered on the recommendation of the Vigilance, which detected some irregularities during the preventive check in the nature of misappropriation of government money resulting in leakage of money from government exchequer and that considering the gravity of misconduct and irregularities committed by the applicant the transfer was proposed to Krishnanager on the recommendation of GM (Vigilance) and, that, it was just, fair and reasonable and in the interest of railway administration.

3. The applicant has assailed the transfer order as well as speaking order in the present O.A. and has sought for the following reliefs:

* "8.(a) *An order be passed to set aside and/or rescind and/or
cancel the order of transfer dated 19.06.2019, annexure 'A-5' to this
application;*

* (b) *An order be passed to set aside and/ or rescind and/
or cancel the speaking order dated 01.10.2020 communicated
through letter dated 05.10.2020, annexure A-9' to this application;*

(c) *Pass such other order orders as may be deem fit and proper;"*



4. Ld. Counsel for the applicant, at hearing, would submit that such transfer during suspension was not in accordance with law and that in terms of Railway Board's Circular the transfer deserved to be quashed.

5. Per contra, Ld. Counsel for the respondents would submit that proceedings initiated against the applicant has culminated in penalty of reduction in pay and, therefore;

- (i) No proceeding is pending against the applicant and neither he is on suspension.
- (ii) The staff was detected by the Eastern Railway Vigilance Team on earlier 5 occasions and, therefore, he repeatedly figured in vigilance matters, which was a reason he had to be transferred out of Sonarpur.
- (iii) Since his name figured in the vigilance matters repeatedly, the transfer was not required to be routed through the Complaints Committee and the misconduct being proved and the applicant being found guilty and punished, deserves no mercy.

6. Ld. Counsels were heard and records were perused.

7. We gave our anxious consideration to the facts and the records. We found no denial on the part of the applicant that he was repeatedly detected by the vigilance, of irregularities. In view of such, we are not inclined to interfere with the transfer as challenged in the present O.A. More so, as no proceedings are

pending against the applicant and he is not under suspension. However, the respondents having failed to justify ^{how for} while on suspension, a fresh order may be issued recalling the earlier one, within four weeks in the event the respondents find that a railway servant under suspension could not be transferred and in that event the applicant shall be deemed to have served at Sonarpur till issuance of a fresh order.

8. The O.A. stands disposed of accordingly. No costs.

(Dr.NanditaChatterjee)
Member (A)

(Bidisha Banerjee)
Member (J)

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