



CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA

No. O.A. 350/01177/2020

Date of order: 1.12.2020

Present : Hon'ble Dr. Nandita Chatterjee, Administrative Member

Nani Gopal De,
Son of Late Gopi Ranjan De,
Aged about 46 years,
Residing at 118, Deshbandhu Sarani,
Flat No. G-7, Ground Floor,
Post Office – Baksara, Police Station – Santragachi,
District – Howrah – 711 110,
And working to the post of Senior Technician under :
The Senior Section Engineer / OHE/Santragachi,
South Eastern Railway,
Under Senior DDE/TRD/Kharagpur Division.

... Applicant

- V E R S U S -

1. Union of India
Service through the General Manager,
South Eastern Railway,
11, Garden Reach Road,
Kolkata – 700 043.
2. The Divisional Railway Manager,
South Eastern Railway,
Kharagpur Division,
Pin – 721301,
District – West Midnapore.
3. The Senior DEE/TRD/Kharagpur,
South Eastern Railway,
Kharagpur Division,
Pin – 721301,
District – West Midnapore.
4. The Senior Divisional Personnel Officer,
South Eastern Railway,
Kharagpur Division,
Pin – 721301,
District – West Midnapore.

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5. The Senior Section Engineer / OHE/Santragachi,
South Eastern Railway,
Santragachi,
District – Howrah – 711111.

6. The ADEE / Electrical (TRD)/Santragachi,
South Eastern Railway,
Santragachi,
District – Howrah – 711111.

... Respondents

For the Applicant : Mr. P.C. Das, Counsel
Ms. T. Maity, Counsel

For the Respondents : Ms. S. Chowdhry, Counsel

ORDER (Oral)

Per Dr. Nandita Chatterjee, Administrative Member:

The applicant has approached this Tribunal in the second stage litigation under Section 19 of the Administrative Tribunals Act, 1985, primarily aggrieved with non-receipt of salary for the period 22.2.2020 to 20.3.2020, and would pray for the following relief in particular:-

- "(a) To quash and/or the impugned order dated 11.7.2020 issued by the Senior Section Engineer/OHE, Santragachi, South Eastern Railway by which without considering the fact that the transfer order of the applicant has been quashed, the respondent authority by way of issuing this impugned order directed the applicant to apply for leave which is not sustainable in the eye of law being Annexure A-11 of this original application.
- (b) To pass an appropriate order directing upon the respondent authority to disburse the salary of the applicant for the period 22.2.2020 to 20.3.2020 as because the order of transfer against the applicant has been quashed by the competent authority vide office order dated 18th March, 2020 which is appearing at Annexure A-8 of this original application in compliance of the direction given by this Hon'ble Tribunal vide order dated 11.2.2020 being Annexure A-6 of this original application, therefore, the applicant is entitled for salary for that period with effect from 22.2.2020 to 20.3.2020 which is illegally and arbitrarily withholding by the railway respondent by harassing the present applicant and compelled the applicant to file another original application for redressal of the same;
- (c) To pass an appropriate order directing upon the respondent authority to regularize the period with effect from 22.2.2020 to 20.3.2020 as because the order of transfer against the applicant has been quashed by the competent authority and for that for such period your applicant is entitled for salaries for that period and for that your applicant cannot be compelled to apply for leave. Enforcing the applicant to apply for leave for that period despite the order of transfer against the applicant is

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quashed and/or set aside by the competent authority is wholly illegally and arbitrary since the order of transfer has been quashed and without approval of the competent authority, the issuance of the impugned order is not sustainable in the eye of law."

2. Heard both Id. Counsel, examined documents on record. This matter is taken up for disposal at the admission stage.

3. Ld. Counsel for the applicant would submit that the applicant, is holding the post of Senior Technician under SSE/OHE/Santragachi, South Eastern Railway, Kharagpur Division. The applicant was transferred vide an order dated 6.8.2019 to Datan at Paschim Medinipur. Aggrieved with such transfer order, he approached this Tribunal in O.A. No. 350/00185/2020 primarily on the grounds that his elder son is a Thalassemmia patient, and, that, the applicant is his caregiver.

The Tribunal, thereafter, issued the following orders:-

"6. Accordingly, without entering into the merits of the matter, we dispose of the O.A. with a direction upon the concerned Respondent No. 2 and 4 or any other competent authority to consider the representation in the light of the DoPT O.M. dated 08th October, 2018 and pass appropriate order within 4 weeks from the date of receipt of copy of this order. Till such time, the applicant would not be compelled to join the place of transfer. For the purpose of appropriate consideration by the authorities, the applicant shall forward a copy of the DOPT O.M. dated 08.10.2018 and medical certificate of the child to the authorities within one week from the date of receipt of a copy of this order."

In compliance thereof, the applicant's transfer order to Datan was quashed vide orders dated 18.3.2020 (Annexure A-8 to the O.A.), but, as per Annexure A-11 to the O.A., the respondents vide their communication dated 11.7.2020, advised him to apply for leave and his salary for the period 22.2.2020 to 20.3.2020 was withheld.

The applicant, thereafter, represented on 3.8.2020 (Annexure A-12 to the O.A.) and Ld. Counsel would pray that a direction be issued to the competent respondent authority to dispose of the same in a time bound manner.



4. Ld. Sr. Standing Counsel who is appearing for the respondents would not object if a direction is issued to consider the representation in accordance with law.

5. Accordingly, without entering into the merits of the matter, and, with the consent of the parties, I would direct the respondent No. 3, who is the Sr. Divisional Electrical Engineer, Electrical/TRD, Kharagpur Division, South Eastern Railway, and the addressee of the representation at Annexure A-12 to the O.A. to consider the contents of such representation, if received at his end, within a period of 12 weeks from the date of receipt of a copy of this order. The said authority will decide in accordance with law and thereafter convey his decision to the applicant in the form of a reasoned and speaking order.

In case the applicant's claim is found to be justified, his entitlements should be released to him within a further period of 10 weeks from such decision.

7. With these directions, the O.A. is disposed of. No costs.

(Dr. Nandita Chatterjee)
Administrative Member

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