

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

Original Application No.733 of 2003

Allahabad, this the 28th the day of January, 2004

Hon'ble Mrs. Meera Chhibber, J.M.

Brijendra pal Singh,
S/o Sh. Dhani Ram
R/o Village & post Aurangabad
District Mathura
Presently posted as
Junior Engineer-I
Works (Construction)
North Eastern Railway,
Fatehgarh,
District Farrukhabad.

....Applicant.

(By Advocate : Shri K.K. Mishra
Shri Ajay Rajendra

Versus

1. The Union of India,
through Chairman Railway Board,
New Delhi.
2. The General Manager,
North Eastern Railway,
Gorakhpur.
3. The General Manager,
East Central Railway,
Hazipur.
4. Chief Administrative Officer (Con)
North Eastern Railway, Gorekhpur.
5. Chief Engineer (Con)
North Eastern Railway, Gorekhpur.
6. Chief Engineer (Con)
East Central Railway,
Gorekhpur.
7. Dy. Chief Engineer (Con)
North Eastern Railway, Lucknow.
8. General Manager (P)
North Eastern Railway,
Gorekhpur.
9. G.M.(P), N.E. R., Gorakhpur.

..... Respondents.

(By Advocate : Shri K.P.Singh)

O R D E R

In this O.A., applicant has challenged the orders
and 30.5.2003.
dated 1.4.2003, 15.5.2003/ By order dated 1.4.2003, he was
transferred from N.E.R., Lucknow to E.C.R. Samastipur. By

order dated 15.5.2003 his representation against the transfer order was rejected and by order dated 30.5.2003 his request for change of lien was also rejected by the competent authority

2. Respondents in their Counter affidavit have submitted that applicant has not been transferred by order dated 1.4.2003, from Fathehpur to Samastipur (Bihar) in new established zone, but the applicant's lien has already been issued under Samastipur division on 3.3.2003 and due to shortage of fund and reduction of work, applicant has been returned back to parent Railway i.e. E.C. Railway, so that applicant can get seniority, promotion and other consequential benefits as per normal Rules.

3. During the pendency of the O.A., respondents have issued another office order dated 28.10.2003 whereby applicant's lien has been fixed at Izzatnagar division as per his own request and he has been posted at Fathehgarh under the Dy. Chief Engineer (Construction), Lucknow. Applicant has, therefore, filed M.A. no. 4235 of 2003 praying therein to quash the impugned orders in view of the order dated 28.10.03 and direct the respondents to pay the entire dues i.e. salary Bonus w.e.f. 1.4.2003 etc. to the applicant. He has further sought a direction to the respondents to permit him to join at Izzatnagar Division. Applicant has annexed the order dated 28.10.2003 as Annexure A-2 with the above said application.

4. I have heard both the counsel and perused the pleadings as well.

5. perusal of the order dated 28.10.2003 shows that lien and transfer has been effected with immediate effect, meaning thereby it will be given effect to after the issuance of the order dated 28.10.2003. It is also made clear that this transfer has been done at the request of the applicant himself by putting him at the bottom of the seniority in Izzatnagar division. The very fact that now applicant's lien has been fixed and he has been transferred to Izzatnagar div.

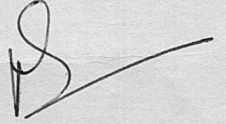
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I do not see any reason as to why applicant should not be allowed to join at Izzatnagar Division. Counsel for the respondents has submitted that there is a paper formality required to be completed as applicant has to report at the office of E.C. Railway, Hazipur as all papers have already been sent to E.C. Railway and after he is relieved from there, then only he can be allowed to join at Izzatnagar division. I do not think that the applicant is required to report to the office of E.C. Railway, Hazipur because even by the earlier order, he was transferred to E.C. Railway Samastipur. Even in the order dated 28.10.2003, order has been endorsed to Dy.Chief Engineer (Construction), Lucknow with a direction to relieve the employee so that he may join at Izzatnagar Division, therefore, applicant is required to report to Dy. Chief Engineer (Construction), Lucknow. It is submitted by the applicant that he had already reported to Dy. Chief Engineer (Construction), Lucknow on 4.11.2003 alongwith the order dated 28.10.2003, but neither he was allowed to join there nor he has been relieved for joining at Izzatnagar division. It is not known whether the applicant has already given a proper application to Dy.Chief Engineer (Construction), Lucknow, in this regard or not. If it is not done already, he is now permitted to give a proper application to Dy. Chief Engineer (Construction), Lucknow alongwith a copy of the order dated 28.10.2003 within a week from the date of receipt of copy of this order. Incase he gives such an application to Dy. Chief Engineer (Construction), Lucknow *he* shall relieve the applicant forthwith with direction to report at Izzatnagar Division. As far as intervening period is concerned, it would be open to the applicant to give a detailed representation to the G.M. (P), N.E.R., Gorakhpur giving all the facts therein and requesting him to regularise the period in accordance with law. If applicant gives such an application within two weeks, G.M. (P), N.E.R., Gorakhpur, shall decide the same by passing a detailed and reasoned

[Signature]

order within a period of two months thereafter under intimation to the applicant.

6. In view of the above developments and directions given in para 5 above, this O.A. is finally disposed off with no order as to costs.



MEMBER (J)

GIRISH/-