

(OPEN COURT)

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD**

Allahabad, this the 25th day of August, 2009

**Hon'ble Mr. A.K. Gaur, Member-J
Hon'ble Mr. D.C. Lakha, Member-A**

Original Application No.869 of 2008

Umesh Kumar Gupta aged about 40 years son of Shiv Dharvendra Nath Gupta working as Efficiency Inspector under GM (Planning), N.E. Railway Gorakhpur, Resident of 158, Mustipur, Nakhas Chowk, Gorakhpur.

..... *Applicant*

By Advocate : Shri S. Ram

V E R S U S

1. Union of India through the General Manager, North Eastern Railway Headquarters Officer, Gorakhpur.
2. Sr. Dy. General Manager, North Eastern Railway, Headquarters Office, Gorakhpur.
3. Divisional Railway Manager (Mechanical), N.E. Railway, Lucknow.
4. Member (Mechanical), Railway Board, Rail Bhavan, New Delhi.

..... *Respondents*

By Advocate : Shri P.N. Rai

O R D E R

By Hon'ble Mr. A.K. Gaur, Member-J

We have heard Shri Sudama Ram, learned counsel for the applicant and Sri P.N. Rai, learned counsel for the respondents.

2. It is alleged that the applicant has already preferred a representation on 02.04.2008 to the Competent Authority against his transfer to Izzatnagar Division in pursuant to the Tribunal's orders dated 06.11.2007 and 20.03.2008 passed in O.A. No.613 of 2007. It is also

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submitted that the competent authority i.e. Railway Board, the Next Higher Authority has examined the representation of the applicant as well as the existing rules and instructions on the subject. The applicant while working as TXR, Ajmer Division, Western Railway, was transferred in 1998 to Lucknow Division, N.E. Railway on his on request. Thereafter, the applicant was selected for the Ex-cadre post of Efficiency Inspector in N.E. Railway Gorakhpur. We have noticed that the representation of the applicant has been considered by the competent authority, who found that the applicant was transferred in the year 2007 to his original Mechanical Department of N.E. Railway, Izzatnagar in administrative exigencies.

3. Learned counsel for the applicant stated that the applicant was never transferred in the year 2007 to mechanical department of N.E. Railway Izzatnagar, he also submitted that his parent department is N.E. Railway Lucknow Division and he should have been repatriated to the Lucknow Division and not Izzatnagar Division.

4. It is also alleged by the applicant that his representation has been decided without application of mind and the order dated 04.08.2008 is cryptic and non speaking. He also submitted that when the Railway Administration has already commended the work of the applicant, there was no justification for transferring him to Izatnagar Division instead of his parent unit at Lucknow Division. The respondents have utterly failed to consider the case of the applicant that he was on deputation and he should have been repatriated to his parent unit at Lucknow Division and not Izzatnagar Division.

5. Learned counsel for the applicant submitted that the order of the Railway Board dated 04.08.2008 is cryptic and non speaking.

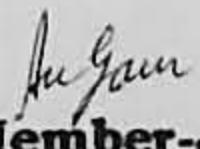
6. Learned counsel for the respondents stated that the applicant has already joined at N.E. Railway Izzatnagar and the O.A. filed by the applicant is misconceived.

7. Having heard the arguments advanced by the parties counsel we are firmly of the view that without interfering with the order dated 04.08.2008 of the Railway Board, we hereby direct the applicant to prefer a representation indicating factual position of his case within a period of two weeks from the date of receipt of copy of this order, if such representation is preferred by the applicant, the Competent Authority i.e. Railway Board shall reconsider the grievance of the applicant afresh, in accordance with the Rules within a period of three months from the date of receipt of copy of the order. It is made clear that the order dated 02.04.2008 already passed in the matter may not be an impediment in passing fresh order.

With the above observations the O.A. is disposed of. No costs.



Member-A



Member-J

/Sushil/