

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 640 OF 1999
Cuttack this the 27th day of June, 2000

Prasanta Kumar Bagh

...

Applicant(s)

-VERSUS-

Union of India & Ors.

...

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? Yes
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? No

(G. NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.640 OF 1999
Cuttack this the 27th day of June, 2000

CORAM:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN

AND

THE HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

...

Prasanta Kumar Bagh,
S/o. Dhurba Chandra Bagh
Presently working as A.E.N.,
South Eastern Railway
Chendiwada, Nagpur

...

Applicant

By the Advocates

M/s.A.Kanungo
S.R.Mishra

-VERSUS-

1. Union of India represented
through it's General Manager
S.E.Railway, Garden Reach
Calcutta
2. Chief Personnel Officer
S.E.Railway, Garden Reach
Calcutta
3. Chief Engineer,
S.E.Railway, Garden Reach
Calcutta
4. Divisional Railway Manager
S.E.Railway, Khurda Road
Bhubaneswar
5. Divisional Railway Manager(Personnel)
S.E.Railway, Nagpur

...

Respondents

By the Advocates

Mr. P.K. Mishra
Addl.Standing Counsel
(Railways)

...

2
O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN : In this application the petitioner has prayed for quashing orders at Annexures 2 & 5. When the matter was taken up Shri A. Kanungo, learned counsel for the petitioner submitted that he did not press for quashing of Annexure-5 and he confined his prayer to quashing of Annexure-2. Respondents have filed their counter opposing the prayer of the applicant. Petitioner has filed rejoinder and respondents have filed reply to rejoinder. To-day learned counsel for the petitioner has filed additional rejoinder copy of which has been served on the learned Addl. Standing Counsel appearing for the respondents. It is not necessary to refer to all the averments made by the parties in the pleadings because the relevant matters will be referred to while discussing the submissions made by the learned counsel for both sides.

2. For the purpose of considering this application it is not necessary to go into too many facts of this case. Applicant's case is that he originally was a Draftsman. Thereafter he became Chief Draftsman and ultimately became Assistant Engineer in 1995. Originally he joined at Khurda Road as Draftsman. On his promotion as Assistant Engineer he was posted to Kantabanjhi where after one year he was transferred to Titlagarh and from 15.7.1997 he has been working under Khurda Road at Bhubaneswar. His case is that he was sent for training in the Indian Railway Institute for Civil Engineers at Pune from 30.1.1999 to 16.4.1999. After completion of the training he joined at his previous station on 26.4.1999, but he was instructed to report before the Chief Engineer, Garden Reach, Calcutta. On his reporting before the Chief Engineer the transfer order dated 22.4.1999 vide Annexure-2 transferring to the post of Assistant

Engineer, Chindwada was handed over to him. Accordingly the applicant joined at Chindwada. His grievance is that order of transfer from Khurda Road to Chindwada is in violation of departmental rules and regulations. He also states that he was immediately relieved and he never handed over the charge of the post of Assistant Engineer at Khurda Road.

3. Respondents in their counter have stated that applicant, after working for some time at Chindwada applied for leave. Leave was sanctioned to him from 7.6.1999 to 12.6.1999. But he did not resume duty on 13.6.1999. On 14.6.1999 a Telegram was sent to him asking him to resume duty. Thereafter the applicant sent a Telegram on 14.6.1999 intimating that his wife was ill and he was unable to resume duty. Respondents have stated that as the work of the petitioner was of emergent nature and as he remained absent from duty for long they were forced to post another person one Shri Lal in place of the petitioner at Chindwada to attend to urgent work. On the above grounds respondents have opposed the prayer of the applicant.

4. We have heard Shri A.Kanungo learned counsel for the petitioner and Shri P.K.Mishra, learned Addl.Standing Counsel appearing for the respondents and also perused the records.

5. The first ground of challenge by the petitioner is that according to him his transfer as Assistant Engineer, Khurda Road is violative of the Circular dated 3.8.1998 of the Railway Board which is at Annexure-9. In this circular it is stated that an officer on completion of training should be posted back to the same station and from where he was deputed for training. We have considered the above submissions of the learned counsel for the petitioner carefully. The above circular relied upon

by him

by him is not applicable to this case because he was not transferred from the post of A.E.N., Khurda Road to the training Institute. He was only deputed for training and therefore on return from his training automatically he is supposed to come and join in his previous post. He has accordingly also given his joining report on 26.4.1999 on completion of training on 16.4.1999. The Chief Engineer has transferred him from Khurda Road to Chindwada in order dated 22.4.1999 at Annexure-2. This transfer order therefore, cannot be challenged on the ground that straightaway from the Training Institute he has been transferred to Chindwada. He has actually come and given his joining ~~report~~ report at Khurda Road in his old post and this circular therefore, is not applicable to him. It is further stated by the petitioner that the applicant ~~had~~ has not handed over charge and he was relieved immediately. The departmental respondents in their counter have stated that it was not necessary for the applicant to handover the detailed charge in view of the fact that he had been relieved from this post. Even if it is accepted for argument sake that the applicant has not handed over the charge that itself will not invalidate his transfer from Khurda Road to Chindwada. Respondents in their reply to rejoinder have stated that because of certain allegation against the petitioner and because of his lack of interest in work, D.R.M. reported to the Chief Engineer regarding unsatisfactory work of the applicant and on that basis he was transferred from Khurda Road. We also find that the applicant is in transferable job and when his immediate superior officer has found that his working there is not satisfactory, the Head of the Department has transferred him to another place, there is no illegality committed by the respondents in transferring the

S. Jom

applicant from Khurda Road to Chindwada.

In view of the discussions held above we hold that the Original Application is without any merit and the same is rejected, but without any order as to costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

27.6.2010

B.K.SAHOO//