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## ORIGINAL APPLICATION NO. 906 OF 2005

### ORDER DATED: 25.11.05

Heard Mr. Achintya Das, Ld. Counsel for the applicant. A copy of this O.A. has been served on Mr. R.C.Rath, Ld. Standing Counsel for the Respondents.

2. The applicant has approached this Tribunal facing transfer from the post of JE Gr.II (P.Way) SPI/RIG to the post of JE-II/ Special in its existing capacity and scale of pay vide Annexure-A/1, dated 16.9.05. The applicant submits that he had also represented to Respondent No.4 on receipt of the posting order referred to earlier by his letter dated 5.11.05 but he did not receive any response from the ~~either~~ side. As, he has been directed by the authorities to vacate Railway accommodation on ~~relief~~ from his post, he had no option but to rush to the Tribunal for protection. His further submission is that, he, being an ST officer, is entitled to protection in the matter of posting in terms of Railway Board Circulars issued from time to time from 1975 onwards and relying on which he had submitted his representation dated 5.11.05.

3. I have perused the Railway Board Circulars referred to by the applicant; copies of which he has enclosed with the O.A. at Annexure-A/10. The Railway Board Circulars contained instructions that in the matter of transfer of SC and ST employees care should be taken that their displacements do not lead to harassment or discrimination. Although, the

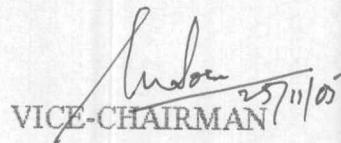
applicant has not brought any instance of harassment or discrimination in the matter of his posting, he has submitted that mid-session transfer for him will entail disruption of the academic career of his children; one of them is schooling at 10+2 level.

4. The Ld. Standing counsel for the Respondents, however, submitted that the applicant has not referred <sup>to</sup> his difficulty with regard to the educational ~~care~~ of his children in his representation nor in the O.A.

5. Be that as it may, if the applicant's family is seriously affected by the untimely posting order, i.e. Annexure-A/1, and if academic career of the children is adversely affected by this order duty is cast on the Respondents to look into the matter. This being the fact of the case, the applicant is directed to file a representation in continuation of his representation dated 5.11.05 ventilating his problem regarding education of his children to the Respondents for consideration. The applicant is further directed that he may, if so advised, file such a representation before the competent authority within 15 days from the date of receipt of this order and, upon receipt of the representation, the competent authority shall dispose of the representation within a period of 45 days from the date of receipt of his representation with a reasoned order. Needless to say, the Government instructions regarding transfer and posting of employees during mid-session should also be kept in view while disposing of the representation. It is further ordered that pending disposal of the representation, to be submitted by the applicant as directed above, the order of transfer at Annexure-A/1 shall remain stayed.

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6. With the above direction, this O.A. is disposed of.
7. A copy of this order be given to both the parties for compliance.



25/11/05

VICE-CHAIRMAN