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O.A. No. 77 OF 2006.

Order dated 16-05-2006.

Heard Mr. A.Das, learned counsel appearing for the Applicant and Mr. S.K.Ojha, learned Standing Counsel appearing for the Respondents/Railways on M.A.No. 294 of 2006 filed by the Respondents praying for modification/vacation of the interim order of stay granted by this Tribunal on 25-01-2006. While hearing the M.A. due consideration was also given to the merit of the Original Application.

It appears that the Applicant is a Junior Engineer Gr.II (P. Way) of E.Co. Railways. He having been transferred from Brajarajnagar to Sahdol under Annexure-A/9 dated 16-09-2005 made a representation to his authorities stating that he being a ST employee, as per the circular of the Railway Board is not liable to be transferred. While the said representation was pending with the authorities, he approached this Tribunal in OA No.906 of 2005 which was disposed of in order dated 25-11-2005 with direction to the Respondents to consider

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the said representation within a period of 45 days. The grievance of the Applicant having been turned down under Annexure-A/1 dated 17-01-2006, he has approached this Tribunal in the present Original Application filed under section 19 of the Administrative Tribunals Act, 1985. It is the case of the Applicant that he being a ST employee is not available to be transferred as per the policy decision of the Railways whereas without taking into consideration such circular of the Railway Board, the grievance of the Applicant has been turned down which needs reconsideration.

It is seen that in the present case while directing issue of notices to the Respondents, this Tribunal as an interim measure had directed as under:-

“Pendency of this case shall not stand as a bar on the way of the Respondents to reconsider the grievances of the Applicant with reference to the Railway Board’s Circulars pertaining to transfer of the members of ST from near their native place. Until reconsideration given in the matter, the Applicant should not be disturbed from his present place of posting/Brajarajnagar until further orders.”

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Today it has been submitted by learned counsel appearing for the Applicant that pursuant to the interim directions of this Tribunal, the Respondents did not reconsider the grievance of the Applicant till date.

Law is well settled that transfer and posting of an employee is within the administrative control of the authorities. Law is also well settled that courts or Tribunals is not the Appellate Authority to decide on transfer of the officers on administrative grounds. The wheels of the administration should be allowed to run smoothly and the courts or tribunals are not expected to interdict/interfere in the working of the administrative system unless the order of transfer is made in gross violation of the statutory and mandatory rules or is an out come of malice. It is the case of the Applicant that the authorities while considering the earlier representation did not take into consideration the standing instructions of the Railway Board in regard to transfer and posting of SC/ ST employees. It is also a fact that as per the interim orders of this Tribunal, the

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Respondents did not consider/reconsider the grievances of the Applicant with reference to the Railway Board's instructions/circulars pertaining to transfer of the members of ST from near their native place.

In the said premises, this Original Application is disposed of with direction to the Respondents to reconsider the grievances of the Applicant with reference to the Railway Board's circulars pertaining to transfer of the Members of ST from near their native place and until such reconsideration is given in the matter, the Applicant should not be relieved from his place of posting. There shall be no order as to costs.

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(B.B.MISHRA)
MEMBER(ADMN.)