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O.A.No. 241 of 2006

Order dated: 26.06.2006

Applicants 11 in number have filed this Original Application under section 19 of the Administrative Tribunal Act, 1985 challenging their transfer and posting from Kantabanjhi to Titilagarh under Annexure-3 dated 9.03.2006.

This matter was listed on 20.03.2006 for considering the question of admission and for grant of interim relief claimed by the Applicants; when this Tribunal while issuing notices to the Respondents calling upon them to file their counter, as an ad-interim measure, passed the following orders:-

“Until further orders are given in the matter, the Applicants should be allowed (by the Respondents) to retain their Residential Quarters/Basements at Kantabanjhi and, while doing so, they should be allowed to attend to their duties by giving due respect to the orders under Annexure-1. This ad interim order has been passed even after prima facie objection raised by the 1d. Standing Counsel for the railways; who has stated that a policy decision has been taken to shift the Railway basements of the applicants from Kantabanjhi to Titilagarh. Further

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consideration shall be given in the matter/interim prayer immediately after filing of the Counter by the Railways."

Respondents have filed their Counter on 10.04.2006 along with M.A.No. 223 of 2006 for vacation of the adinterim order dated 20-03-2006 after serving copies thereof on the other side.

In the counter it has been explained by the Respondents that as per the policy decision of the Railways the crew booking point was shifted from Kantabanjhi to Titilagarh. In order to man the work, at first instance, Drivers and Assistant Drivers were shifted to Titilagarh in the year 1999; whereas Coaching Guards were not transferred from Kantabanjhi to Titilagarh due to non-availability of the adequate official residential accommodation at Titilagarh. On availability of official accommodation at Titilagarh 15 numbers of Coaching Guards working at Kantabanjhi were asked to go to Titilagarh under Annexure-3 dated 15.07.2004. It has been maintained by the Respondents that as such transfer and posting of the Applicant was made keeping in view

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the administrative interest by way of policy decision it needs no interference by this Tribunal.

However in paragraph 11 of the Counter it has been stated by the Respondents that in the event of the joining at Titilagarh, if the Applicants apply for retention of the quarters at Kantabajhi, that may be considered by the competent authorities but the Applicants have to make their own arrangement for performing their duties at Titilagarh.

This matter was listed on 12.04.2006 for consideration of the prayer for vacation of interim order dated 20-03-2006. But as none has appeared for the Applicant three weeks time was granted to the Applicants to appear and file objection to the aforesaid MA. Thereafter the matter was listed on 15.05.2006 when also none has appeared for the Applicants and the matter was fixed to 22.05.2006 expecting appearance and filing of objection on behalf of the Applicants. On 22.05.2006 none has also appeared on behalf of the Applicants but, however, by way of giving one more chance to the

Applicants, the matter was adjourned to be taken up on 20.06.2006.

Accordingly the matter is listed today for hearing of the Original Application/consideration of the M.A 223/06. Today also none has appeared for the Applicants. No request has also been made on his behalf for adjournment of this case.

As ad-interim order has been continuing in this case since 20-03-2006 and the matter is ready for hearing, learned counsel appearing for the Respondents vehemently insisted for disposal of this Original Application/vacation of the adinterim order dated 20-03-2006. Heard Mr. Rath, learned counsel appearing for the Respondents and with his aid and assistance perused the materials placed on record.

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. This Tribunal has also no competence or jurisdiction to interfere with the policy decision of the govt. with regard to shifting of the base from Kantabanjhi to Titilagarh. As regards non-availability of official accommodation, the Respondents have already explained in their counter that in case any of the employees makes request for retention of the official accommodation at Kantabanjhi the same will be considered.

In view of the discussions made above, this Original Application is dismissed on merit as per the powers available under Section 22(3)(g) of the AT Act, 1985 and Rule 15(l) of CAT (Procedure) Rules, 1987.

There shall be no order as to costs.


 MEMBER(ADMN.)