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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No. 552 of 2009
Cuttack, this the 15th November, 2010

Mr.Sruti Ranjan Sahoo Applicant
Versus
Union of India & Others Respondents
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CORAM
THE HON'BLE MR. C.R. MOHAPATRA, ADMN. MEMBER

As a matter of policy, vide Notification No. 97/E&R/700/1/Notification dated 14-06-2002 & 04-07-2002, the Ministry of Railways divided and constituted seven New Railway Zones out of which North Western Railway, Jaipur and East Central Railway, Hajipur became operational with effect from 01.10.2002 and the remaining five (East Coast Railway, Bhubaneswar, South Western Railway, Hubli, West Central Railway, Jabalpur, North Central Railway, Allahabad and South East Central Railway, Bilaspur) with effect from 01-04-2003. Due to trifurcation of the South Eastern Railway, to man the posts Notification was issued by the Railway Board vide No. E (NG)I/96/TR/36 Vol. II dated 06-12-1996 dated 06.12.1996 [RBE 123/1996] as modified/clarified vide letters dated 21.3.1997[RBE 42/97], 19.8.97[RBE 111/1997], 20.8.1997 [RBE 112/1997], 5.5.1997 [RBE 66/1997] 23.7.1997 [RBE 101/1997], 13.11.1997 [RBE 159/1997], 31.3.98 and 26.5.98 [RBE 112/1998] inviting options from the existing employees as to whether they would like to continue to work wherever they are working then or to proceed to the Headquarters offices of the respective New Zonal Railways {i.e. from (i) North Eastern Railway & Eastern Railway to East Central Railway; (ii) from Northern Railway & Western Railway to North Western Railway; (iii) from South Eastern Railway to East Coast Railway; (iv) From Southern Railway and South Central

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Railway to South Western Railway; (v) From Central Railway and Western Railway to West Central Railway; (vi) From Northern Central, North Eastern & Western Railways to North Central Railway and (vii) from South Eastern Railway to South East Central Railway}.

2. According to the Applicant he is at present working as a Booking Clerk in Brajrajnagar under the South East Central Railway. Pursuant to the Railway Board Notification, stated above, inviting application for option transfer, he exercised his option to be transferred & posted to the newly carved out Railway i.e. ECoRly within the stipulated time. His option was also duly forwarded by the Chief Station Manager, Brajrajnagar, S.E.C.Railway to the Sr. DPO/Bilaspur and, in turn, the Sr. DPO/Bilaspur forwarded the option form submitted by him to the Chief Personnel Officer, S.E.C.Railway, Bilaspur vide his letter No.E/GE/MPP/E.C.Railway/BBSR dated 23.04.2004 for onward transmission/consideration of the request of the Applicant for transfer from S.E.C.Railway to ECoRly (Annexure-A/3). Since no reply was received by the Applicant on the said request, he reiterated his prayer through application dated 14.07.2003 (Annexure-A/2). While requests of option transfer submitted by other co-employees of the Applicant were given effect to, nothing has been communicated to him, the mother of the Applicant by submitting representation dated 07.10.2009 (Annexure-A/4) requested the Railway to consider the transfer of the Applicant. It is the case of the Applicant that despite the specific directives of the Railway Board vides Notification No. E (NG) I-96/TR/36 Vol.IV dated 30.10.2003 (RBE No.187/2003) that "**options exercised by staff holding headquarter controlled posts in the affected Divisions as per Instruction vide Note below Para 2 (ii) (b) of Board's letter No. E (NG) I-96/TR/36 dated 06.12.1996 (RBE 123/1996) should be honoured and the staff concerned**

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spared by 31.10.2003 positively", no action was taken on the said request of the Application. Hence, by filing this Original Application U/s.19 of the A.T. Act, 1985, the Applicant seeks direction to direct the authority of S.E.C.Railway to release the Applicant forthwith and the authority of ECoRailway to accept and allow the Applicant to join under his administrative control as per his option.

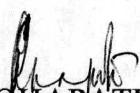
3. In the counter the Respondents do not dispute the option submitted by the Applicant under Annexures-A/1&A/2 as also the letter forwarding the said option of the Applicant (Annexure-A/3). But it has been stated that the applicant is holding the post of Booking Clerk and his nature of job is to sell the tickets to the passengers travelling by Rail or to collect the freights for using the Railway parcel and booking facility for transaction of goods by the common people or private and other government organizations. Hence the applicant's service can be utilized only in the Railway stations or booking and parcel offices but not in headquarter offices. Hence there is no scope to consider the applicant's option transferring him from SEC Railway to ECoRailway on the basis of Railway Board's directives. Secondly it has been submitted that the applicant submitted his option after the stipulated period provided by the Railway Board and the date mentioned in the option is not correct. Accordingly, while objecting to the contentions raised by the Applicant in the OA, Respondents have prayed for dismissal of this OA.

4. Mr. A.Das, Learned Counsel appearing for the Applicant and Mr.S.K.Ojha, Learned Standing Counsel appearing for the Respondents have reiterated the stand in their respective pleadings and perused the materials placed on record. It was contended by Learned Counsel for the Applicant that there is no such prohibition in the order issued by the Railway Board that a Booking Clerk cannot be transferred and in fact, request of such option

transfer of ASM, Train Drivers, Guards have been accepted and they have been transferred from one Railway to other and non-consideration of the request of option transfer no such ground amounts to violation of Article 14 of the Constitution. Further Learned Counsel for the Applicant denied the contentions that the option of the applicant was beyond the stipulated date and according to him had it been so then his option could not have been forwarded for consideration. Learned Standing Counsel appearing for the Respondents reiterating the contentions raised in the counter has objected to the above contentions of the Learned Counsel for the Applicant. Considered the submissions of Learned Counsel for both sides. The Respondents have placed no material in support of their stand that the option of the Applicant was really received beyond the cut off date fixed for exercising such option. It is also not the case of the Respondents in their counter that request of no other categories of staff such as Train Drivers, Guard, ASMs or of the rank of Applicant has been considered and they have been transferred to other Railways. No details as to when the Respondents have received the application of option transfer and the letter of the S.E.C.Railway forwarding such option is forthcoming from the counter. The reason for non-consideration was also not intimated to the applicant prior to filing of the counter in the present case, if at all there was any prohibition for considering the case of the Applicant. However, Applicant is a Commercial Clerk. He is entrusted with the duty of selling of ticket etc. This does not mean that he cannot be entrusted with the other ministerial work. However, as per the policy of transfer, he will be placed at the bottom of the seniority list maintained in the cadre where he will be fitted. Viewed the matter from any angle, I find no justifiable reason to uphold the action of the Respondents in not considering the request of the option transfer of the Applicant to ECo Railway on bottom seniority. Hence, the Respondent

Nos. 2, 5 and 6 are hereby directed to release the Applicant from S.E.C. Railway and the Respondent Nos. 3 and 4 are hereby directed to allow the Applicant to join in the ECo Railway but his seniority in the new Railway will be fixed in accordance with Rules. The entire exercise shall be completed within a period of 60 days from the date of receipt of copy of this order.

5. In the result, this OA stands allowed to the extent stated above. There shall be no order as to costs.


(C.R.MOHAPATRA)
MEMBER (ADMN.)