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O.A.No.581 of 2009

Kishore Ch. Routray ..... Applicant  
Versus  
Union of India and others ..... Respondents

Order dated 12.01.2010.

C O R A M

THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (A)

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Heard Learned Counsel for the Applicant and Mr. S.K.Ojha, Learned Standing Counsel for the Railway appearing on notice for the Respondents and perused the materials placed on record. In this Original Application filed under section 19 of the Administrative Tribunals Act, 1985, the Applicant challenges the order under Annexure-3 dated 04.10.2009 directing as under:

“In view of paucity of staff in the Booking Office/BBS to work in counter Sri S.Mohanty/Hd.P.C. working in PRS BBS should report to CBSE/BBS on 05.10.09 without fail. He should not be utilized in the PRS further with effect from 05.10.09. Smt. A.N.Nayak Hd. Bc and Sri K.K.Routray Hd.Bc should also report to CBSR/BBS subsequently.

In view of shortage of staff in the TC Office/BBS to manage day to work and also be improve Ticket Checking Earnings Smt.C.Das S.r.Tc working in the TRS should also report CTI (STN) w.e.f. 05.10.09. Her services should not be utilized in the Reservation office further. This is as per the order of Sr.DCM/KUR.

The matter may be treated as most urgent and most important.”

He also seeks direction for regularization of his service in the post of reservation clerk as he has been continuing in the said post since 1993 without any demur to the best satisfaction of his authorities. As an interim measure, the Applicant seeks stay of the order under Annexure-3.

2. Learned Standing Counsel appearing on notice for the Respondents opposed the very entertaining of this Original Application

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on the ground that the posting of the applicant is no way contrary to the rules nor the authority passed the order is incompetent to do so. He also stated that there is no Rule to regularize the services of the applicant in the post in which he is continuing even conceding for a moment that he is continuing in the post since 1993. Rather continuance of an employee in the post particularly in the post of reservation clerk in a particular place for such a longer period is prohibited. On being asked, Learned Counsel for the Applicant failed to justify his stand with any authority of rule or law. Interference in the order of transfer and posting from one place to other is no more *res integra* and it would suffice to say that it is well settled law that no Government servant or employee of a public undertaking has any legal right to be posted for ever at any one particular place or place of his choice since transfer of a particular employee appointed to the class or category of transferable posts from one place to another is not only an incident, but a condition of service necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of mala fide exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the Tribunal cannot interfere with such orders as a matter of routine, as though they were the appellate authority substituting their own decision for that of the employer/management, as against such order passed in the interest of administrative exigencies of the service concerned. It is not the case of the Applicant that the order under Annexure0-3 is in any manner contrary to rule or mala fide exercise of power. It is also not the case of the applicant that the duties entrusted to him are not supposed to be discharged by him thereby there has


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been infraction of any rule or by the order of posting; there would be depletion of the pay and allowances which he has been receiving in his present post. This apart, if he is aggrieved by the order under Annexure-3 he should have first taken up the matter with the authority next to the authority who passed the order under Annexure-3 which having not been done, this Tribunal is not inclined to entertain ~~in~~ this OA.

3. For the reasons discussed above, I am not inclined to entertain this OA. Hence, the OA stands dismissed being devoid of any merit.

Copies of this order along with OA be sent to all the Respondents,

  
(C.R. Mohapatra)  
Member (Admn.)