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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.260/000064/2014

Cuttack this the 4th day of March, 2014

CORAM

HON'BLE SHRI A.K.PATNAIK, MEMBER(J)
HON'BLE SHRI R.C.MISRA, MEMBER(A)

Madhusmita Ojha
Aged about 28 years
W/o.S.Tarekeswar Rao
C/o.P.P.Mohanty
R/o.Sardar Gali, Near Pani Tanki Road
PO-Modipara, PS-Sadar
Dist-Sambalpur
PIN-768 002, Odisha

...Applicant

By the Advocate(s)-M/s.B.P.Das

T.Sinha
A.Ekka
J.S.Moharana

-VERSUS-

Union of India represented through

1. The General Manager
East Coast Railway
Rail Sadan
Chandrasekharpur
Bhubaneswar-751 017
Dist-Khurda, Odisha
2. The Divisional Railway Manager(P)
East Coast Railways
Sambalpur, Odisha
3. Sr.Divisional Commercial Manager
East Coast Railways
Sambalpur, Odisha

...Respondents

By the Advocate(s)-Mr.T.Rath

ORDER

R.C.MISRA, MEMBER(A):

Applicant in the present Original Application has approached the Tribunal being aggrieved by the action of the Respondent No.2, viz. Divisional Railway Manager(P), East Coast Railway, Sambalpur, who has transferred her to



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Mahasamud from Sambalpur Road vide order dated 31.1.2014, allegedly in contravention of the Railway Board's guidelines dated 2.2.2010 and 4.3.2010. It has been submitted in the O.A. that the applicant started her career as Junior Commercial Clerk from 8.9.2004 and her services were placed at the disposal of Respondent No.3, i.e., Senior Divisional Commercial Manager, East Coast Railway, Sambalpur. By an order dated 23.8.2011, applicant was transferred and posted at Sambalpur Road, where she has been continuing as Senior Commercial Clerk. Vide order dated 31.1.2014 applicant has been transferred to Mahasamud. According to submission made by the applicant, guidelines dated 2.2.2010 issued by the Railway Board prescribe for posting of husband and wife ~~should~~ at the same station. Applicant's husband is also a Railway employee and presently working at Sambalpur. Since the applicant has been transferred to Mahasamud by order dated 31.1.2014, it will mean that the husband and wife will be posted separately in two stations which will amount to contravention of the said guidelines. It is further stated that the guidelines of the Railway Board dated 4.3.2010 ^{re} has fixed the norms for periodical transfer of the railway employees holding sensitive posts. This guideline lays down that those railway servants who are frequently coming into contact with public are required to be transferred every four years. Since the applicant has not completed four years at Sambalpur Road, the present order of transfer has been issued in contravention of the said guidelines. The applicant on 3.2.2014 made a representation to Respondent No.2 requesting for reconsideration of the order of transfer on the above grounds and at the same time moved this Tribunal in the present O.A..

[Signature]

2. This matter was listed on 19.2.2014 for hearing on the question of admission, when Shri T.Rath, learned standing Counsel for the Railways submitted that he had just received some instructions to the effect that the impugned order of transfer has been modified by issuing certain corrigendum. As per his submission, Shri Rath was directed to get a copy of this corrigendum by 24.2.2014. Shri Rath on 24.2.2014 had filed instructions and submitted that the Railway authorities have transferred the husband of the applicant to Mahasamud where his wife has been transferred. Shri B.P.Dash, learned counsel for the applicant has received copy of this instruction from Shri Rath and prayed for one week's time to obtain instructions and in the circumstances, this case was specifically posted to this day.

3. During the course of hearing of this matter on admission, learned Standing Counsel for the Railways submitted that the applicant who was recruited on compassionate ground and was posted as Jr.Commercial Clerk on 8.9.2004 has been working either at Sambalpur Station or at Sambalpur Road Booking Office since her appointment. The distance between Sambalpur Station and Sambalpur Road Booking Office is only 1.8 kms. Similarly, her husband one Tarekswar Rao who is also a railway employee has been working since last seven years at Sambalpur and Sambalpur Road. It is further submitted that there has been no violation of any guidelines issued by the railway Board since the applicant and her husband have now been posted to same station, i.e., Mahasamud. He has also filed the corrigendum dated 10.2.2014 of the Office Order dated 31.1.2014 in which it has been mentioned that the place of posting on transfer of the staff at Sl.No.4 may be read as S.Tarakeswar Rao, Chief Commercial Clerk in PB-2 GP



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Rs.4200 presently working at Sambalpur is hereby transferred to Mahasamud in his existing capacity. It is very clear now that by issuing this Corrigendum Respondents have posted both the applicant and her husband at the same station, i.e., Mahasamud. Therefore, there is no question of violation of any of the guidelines issued by the Railway Board in this matter.

4. Learned counsel for the applicant while admitting the position as submitted by the learned Standing Counsel for the Railways has pressed his point that transfer is in violation of the guidelines issued by the Railway Board dated 4.3.2010, which speaks of periodical transfer of Railway employees holding sensitive posts in the Railways. He has submitted that Railway employees holding sensitive posts and who frequently come into contact with public, contractors and supplies are required to be transferred every four years. However, in the present case, transfer order has been issued before completion of four years in the previous station. This point was effectively countered by the learned Standing Counsel for the Railways, who mentioned that both the husband and wife have been continuing at Sambalpur and Sambalpur Road for the last seven years. Applicant herself has been continuing at Sambalpur and Sambalpur Road from the date of her appointment in the year 2004. It is therefore wrong to mention that they have been disturbed before completion of four years from the same station.

5. It will be useful in this regard to make an observation on the guidelines dated 4.3.2010 issued by the Railway Board. The ordinary meaning of this guideline will be that railway servants who are holding sensitive posts and who are frequently coming into contact with public, contractors and suppliers should not be retained for more than four years in the same station. The obvious reason

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for this is that if they continue for a longer period they are likely to develop vested interests and in order to prevent such an unwanted situation these guidelines for transfer have been laid down. However, it has to be remembered that these guidelines do not mention that no transfer can ~~never~~ be made before completion of above period of four years. Four years is only the maximum limit for stay of such employee in one station. Applicant cannot claim that these guidelines have been violated even when she has been disturbed before four years, if such transfer ^{is warranted by} arises in the public interest or on the basis of administrative consideration. This apart, it is to be noted that transfer guidelines are executive instructions and do not take the nature and character of statute. It is found from the submissions made by the learned Standing Counsel that the main grievance of the applicant regarding posting of her husband in the same station has already been redressed by the authorities. Except a bald submission that the transfer guidelines have been violated, learned counsel for the applicant has not been able to establish his case.

6. Transfer is an incidence of in the Government service and in the interest of administrative efficiency and public service, the authorities are at freedom to transfer their employees and unless any mala fide intention in the matter of transfer or violation of statutory rules is established *prima facie*, the Tribunal is not supposed to interfere in such matters. In the present case, it is very much evident from the facts and submission that there has been no mala fide intention on the part of the Respondents in making this transfer. On the other hand, Respondents have risen to the occasion and issued a corrigendum to the original transfer order by transferring the husband of the applicant also to the same



station where his wife, the present applicant, has been posted on transfer and by doing so they have displayed a sense of duty cast on them to redress the grievance of the applicant.

7. Since the Respondents have redressed the grievance of the applicant, we are not inclined to admit this O.A. and accordingly, the same is rejected being not admitted. No costs.

(R.C.MISRA)
MEMBER(A)




(A.K.PATNAIK)
MEMBER(J)

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