

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

OA. 26 of 1997

Present: Hon'ble Mr. Justice A.K. Chatterjee, Vice Chairman.

Hon'ble Mr. M.S. Mukherjee, Administrative Member.

MAHESH PRASAD VERMA, S/o Late Ram Krishna Prasad,
working for gain as CTXR (Chief Train Examiner) Gr. II,
Eastern Railway, Sahebgunge under Division Railway
Manager, Malda (West Bengal) and residing at Railway
Quarter No. 48/F, South Colony, Sahebgunge, Dist: Sahebgunge
(Bihar).

....Applicant.

-Versus-

1. Union of India, Service through the Secretary, Ministry of Railway, Railway Bhavan, New Delhi.
2. The General Manager, Office of the General Manager, Eastern Railway, Fairly Place, Netaji Subhas Rd. Cal-1.
3. The Divisional Railway Manager (Personnel) Malda Division, Eastern Railway.
4. The Divisional Personnel Officer, Eastern Railway, Malda (West Bengal)
5. The Divisional Mechanical Engineer, Eastern Railway, Malda (West Bengal)
6. The Chief Mechanical Engineer, Eastern Railway, Fairly Place, Calcutta-1
7. The Senior Section Engineer (C.N.W.), Eastern Railway, Sahebgunge, Bihar.

...RESPONDENTS.

8. Ashok Kumar Yadav, working for gain as HTK Head Train Examiner under S.C.W., Jamalpur (Junior to the applicant).
9. M.S.L. Srivastava, working for gain as HTXR (Head Train Examiner) Under S.C.W. Sahebgunge (Junior to the applicant)

...Private Respondents.

For the petitioner: Mr. S.N. Ray, counsel, with
Mrs. Sutapa Banerjee, Counsel.

For the respondents: Mr. C. Samaddar, counsel.

Date of Hearing: 10-01-97.

Date of Order: 10-01-97;

O R D E R

A.K.Chatterjee, V.C.

The petitioner was the Chief Train Examiner, Gr.II at Sahebgunge and faced a disciplinary proceeding and he is under ^{order of} transfer to Jamalpur. Instant application has been filed ^{challenging} ~~for changing~~ the said transfer against which he had made representation on 4th October, 1996, which according to him, has not been disposed of so far. The petitioner under transfer ~~order~~ advice was released on 19-12-96 with a direction to report to Jamalpur on 24-12-96. He has, however, claimed to be on ~~sick~~ leave from the said date. The petitioner also contends that the transfer order was passed in malafide exercise of power and it was ^{made} ~~issued~~ soon after he had replied to Memorandum of Charges issued to him.

We have heard the ld.counsel for both the parties. Mr.C.Samaddar, ld.counsel, appearing for the respondents states that the said order of transfer was absolutely in ^{accordance} ~~conformance~~ with the relevant rules and that ^{it} ~~was~~ not passed in malafide exercise of power. However, on perusal of records produced before us, we find that the representation filed by the petitioner on 4th October, 1996 at page 49 to the petition shows that the petitioner has taken several grounds against the ^{impugned} ~~proposed~~ transfer. In such circumstances, we consider it appropriate to dispose of the application itself ~~with~~ suitable direction upon the concerned authority to dispose of the representation in accordance with the extent rules and law and if the representation is disallowed, a speaking order should be passed and communicated ~~to that effect~~ to the petitioner.

We, therefore, dispose of this application at

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this admission stage itself with a direction to treat the application together with the annexures as a representation for the reliefs claimed and to dispose it of within 4 weeks from the date of communication of this order by passing a speaking order and in case it is rejected, the order of rejection shall be communicated to the petitioner soon after rejection. The petitioner shall not also be required to join the transferred post before disposal of the representation. After disposal of the representation, appropriate order shall also be passed as to how the intervening period should be treated.

We pass no order as to costs.

M.S. Mukherjee
10/1/97
(M.S. Mukherjee)
Member (A)

A.K. Chatterjee
10-1-97
(A.K. Chatterjee)
Vice-Chairman.