

Central Administrative Tribunal Lucknow Bench Lucknow

Original Application No: 284/2009

Lucknow, this the 15th day of July, 2009.

Hon'ble Ms. Sadhna Srivastava, Member (J)

Hon'ble Dr. A. K. Mishra, Member (A)

Harish Kumar Singh, aged about 48 years son of late Sri Niwas Singh, presently working as In-charge Cover Office, Under Station Manager, Gorakhpur, R/o C/o Smt. Savitri Dixit, Balaganj, Lucknow.

Applicant.

By Advocate Sri Raj Singh.

Versus

1. Union of India through the General Manager, North Eastern Railway, Gorakhpur.
2. The Divisional Railway Manager, North Eastern Railway, Ashok Marg, Lucknow.
3. The Divisional Railway Manager (P), North Eastern Railway, Lucknow.
4. The Senior Divisional Operating Manager, North Eastern Railway, Lucknow.
5. The Station Manager, North Eastern Railway Gorakhpur Station Gorakhpur.

Respondents.

By Advocate Sri Azmal Khan (Respondents No. 1 to 5)

Order (Oral)

By Hon'ble Ms. Sadhna Srivastava, Member (J)

The applicant is aggrieved by order dated 25.6.2009 as contained in Annexure A-1 whereby, he has been posted as Head Train Clerk in Gorakhpur Division Gorakhpur.

2. The facts as alleged in the O.A. are that the applicant was appointed as Guard Mail/Exp and posted at Gorakhpur. In 2006, while he was on duty, fell down beneath the Train from the platform and was severally injured with multiple fracture. He remained in hospital from 2.12.2006 to 18.12.2006. On 15.8.2008, he was declared unfit for duty of Guard. On the basis of report of Medical Board, he was medically decategorised due to permanent physical disabilities. After medical decategorisation for the post of Guard, a Screening Committee of Senior Railway Officer was constituted and the applicant was recommended for his posting as Office



Superintendent Grade II in the operating department. It is alleged in the O.A. that the recommendation of the Screening Committee was accepted by the competent authority. The applicant has filed a representation to the respondents for his posting as Office Superintendent Grade II. By the impugned order, the respondents have posted him on the post of Head Train Clerk. Aggrieved by the aforesaid order, the instant application has been filed.

3. Sir Azmal Khan, the counsel for the respondents raises a preliminary objection that the instant O.A. has been filed without raising any grievance before the respondents. He further stated that it is prerogative of the department to post an employee on any post. He further stated that there is no violation of any statutory rule. Therefore, he prayed that the O.A. is liable to be dismissed.

4. We have heard the counsel for the parties.

5. Admittedly, no representation has been filed against the order dated 25.6.2009. If the applicant is unable to perform the duty as Head Train Clerk on the ground of physical disabilities, he should approach the competent authority. Admittedly, after medical decategorisation, the pay of the applicant has been protected. It is not the case of the applicant that this order amounts to his reversion from higher post to lower post. In the present case, the applicant has not alleged any malafide against the respondents. We are of the considered view that at this stage O.A. can be disposed of finally with a direction to the respondent No. 3 to treat this O.A. as a representation and decide the same by reasoned and speaking order in accordance with rules.

6. Accordingly, we direct the respondent No. 3 to treat this O.A. as a representation and decide the same ^{by reasoned order} within a period of three months from the date of receipt of copy of this order. The applicant is directed to serve the copy of the O.A. as well as certified copy of this order to respondent No. 3. The O.A. is disposed of at the admission stage without any order as to costs.


(Dr. A. K. Mishra)

Member (A)


(Ms. Sadhna Srivastava)

Member (J)