

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 467/2009

This the 5th day of January, 2010

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

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

Rajendra Kumar, aged about 32 years son of Sri Kapil Deo Chaurasia, Resident of House No. 551 Ka/290 D, Om Nagar, Alambagh, Lucknow, permanent resident of Village- Krishnanagar, Post- Basahi District- Lakhimpur Kheri.

Applicant

By Advocate: Sri Raj Singh

Versus

1. Union of India through the Secretary, Railway Board, Rail Bhawan, New Delhi.
2. The General Manager, North Eastern Railway, Gorakhpur.
3. The Chief Personnel Officer, North Eastern Railway, Gorakhpur.
4. The Chief Commercial Manager, North Eastern Railway, Gorakhpur.
5. The Divisional Railway Manager, North Eastern Railway, Ashok Marg, Lucknow
6. The Divisional Railway Manager, North Central Railway, Agra.
7. Smt. Poonam Srivastava, Office Superintendent, E-VI, Section in the office of Chief Personnel Officer, North Eastern Railway, Gorakhpur.

Respondents

By Advocate: Sri S.M.S. Saxena

ORDER (ORAL)

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

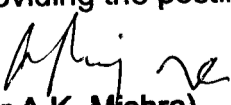
The applicant claims a direction upon the respondents to issue posting order on the post of ECRC in Lucknow and pay salary to the applicant w.e.f. 23.9.2008 i.e. the date of reporting on duty in N.E. Railway, Headquarters at Gorakhpur.


2. The applicant, posted as Enquiry-cum-Reservation Clerk at Mathura in Agra Division of North Central (N.C.) Railway requested for transfer to Lucknow Division of N.E. Railway making an offer to accept the bottom seniority. It was done by the applicant on account of his personal problem. There was correspondence between the General Manager, N.E.Railway and General Manager, N.C.Railway. By order dated 24.1.2005 (Annexure No.A-5), it was ordered that the applicant on being relieved from his post at Mathura may report at Headquarter, Gorakhpur. The applicant was relieved by N.C. Railway on 22.9.2008 (Annexure No.A-8). Thereafter the applicant promptly reported at Gorakhpur Head Quarter of N.E.Railway (Annexure A-9). He was not given

posting order. The Dispute began from this date onward, N.E. Railway, Gorakhpur, by means of letter dated 1.10.2008 informed DRM, Agra i.e. respondent No. 6 that it was not possible to accept the applicant on transfer from N.C. Railway to N.E. Railway. Therefore, he is being asked to report back to N.C. Railway, Agra to resume duty. According to allegations made in para 4.31 of the O.A., N.C. Railway refused to take him back. The ground as alleged in para 4.31 of the O.A. is that once he was relieved from N.C. Railway and reported for duty at N.E. Railway, Gorakhpur, he has to be relieved by N.E. Railway to join at Agra Division. Despite order of the Tribunal, respondent No. 6 i.e. D.R.M., N.C. Railway has not given any reply to the allegations as contained in para 4.31 of the O.A. Thus, it is a peculiar situation. Inter-Zonal transfer order was passed by the competent authority. The applicant was relieved from his posting at Mathura to enable him to join at Lucknow. However, he was not allowed to join. Thus, neither Agra Division (N.C. Railway) is taking him back nor Lucknow Division of N.E. Railway is giving him posting. Under these circumstances, the applicant is in waiting for the posting. He is claiming salary w.e.f. 23.9.2008.

3. The applicant is not at fault. He was relieved on 22.9.2008. He reported at Gorakhpur on 23.9.2008. The applicant is not responsible for the delay caused in relieving him from Mathura by N.C. Railway. It has also not been explained that once N.E. Railway consented to post him at Lucknow, how and in what circumstances, it is being alleged now that there is no vacancy at Lucknow. In our opinion, applicant cannot be held responsible for all this. Therefore, it is not fair to deny him salary from 23.9.2008 onwards. We have given careful consideration to the facts as brought before us. On the face of it, once the transfer order has been passed after consultation with G.M., N.E. Railway, it was incumbent on him to settle the matter in an appropriate manner. The General Manager, N.E. Railway in the circumstances, has to accommodate the applicant on the post of ECRC or analogous post, preferably at Lucknow. He has also to settle the claim of salary put-forward by the applicant. The reason is that the applicant has never refused to perform the duty. The fact is that the duty is not being provided to him. Therefore, the matter is remanded to the G.M., N.E. Railway to provide duty to the applicant and settle his claim for salary.

4. In view of the above, the order dated 25/29.9.2009 (Annexure No. A-1) is set aside. The G.M. N.E. Railway is directed to ensure that he is provided a posting as observed above within 4 weeks of receipt of copy of order. He is further directed to settle the claim for salary as well within 4 weeks of providing the posting. No order as to costs.


(Dr.A.K. Mishra)
Member (A)


(Ms.Sadhna Srivastava)
Member (J)