

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, PATNA.

O.A. No.211/2006

Date of order : 4th April, 2006C O R A M

Hon'ble Mr. Justice P.K.Sinha, Vice-Chairman

Raj Kishore Singh Applicant

Vrs.

Union of Indian & Ors. Respondents.

Counsel for the applicant : Shri M.P.Dixit
Counsel for the respondents : Shri A.A.Khan, SCORDER (ORAL)Justice P.K.Sinha, VC :-

Heard the ld. counsel for the applicant and the learned Standing Counsel for the respondents. This application is for quashing the impugned order of transfer of the applicant to another railway division under order dated 6.3.2006 [Annexure-A/3]. The learned counsel for the applicant, while arguing for admission, submitted that the applicant has come up before this Tribunal on two grounds. The first ground is that, in view of the provisions under the Railway Servants [Discipline and Appeal] Rules, 1968, the Railway Board had issued several directions, one contained in E[D&A]



62RG 6-12 dated 29.3.1962 in which it was stated that it had come to the notice of the Ministry of Railways where staff, whose conduct was under investigation were transferred from one Railway to another which made it difficult to finalize departmental proceedings. The Ministry of Railways had, therefore, decided that non-gazetted staff against whom a disciplinary case was pending or was about to start, should not normally be transferred from one Railway/Division to another Railway/Division till after the finalisation of the departmental or criminal proceedings, irrespective of whether the charges ^{merited} imposition of a major or minor penalty. [reproduced in M.L.Jand's "The Railway Servants (Discipline & Appeal) Rules, 1968 page 4, 8th Edition]. The learned counsel for the applicant submitted that Vice-Annexure-A/1, a major penalty memorandum of charges had been served upon the applicant, hence a departmental proceeding had started at his present place of posting.

2. The learned counsel for the applicant further submitted that under Railway Board's letter No.E[NG]61 TR2/16 dated 21st August, 1961, it was stipulated that an employee due to retire within a period of two years should be normally excluded from the purview of orders regarding periodical transfers. The ld. counsel for the applicant also submitted that in case of transfer, to facilitate the applicant to meet the departmental proceeding, he could have been transferred to any nearby place which has not been done, rather he has been transferred from Muzaffarpur to Dhanbad. The learned counsel also pointed out certain cases in which similar prayers have been allowed. When asked as to whether against the transfer order the applicant has moved the superior authority, the ld. counsel pointed out Annexure-A/2 which was the representation filed by the applicant against the impugned

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transfer order addressed to the General Manager, E.C. Railway, Hazipur dated 20.3.2006. It is submitted by the ld. counsel that this representation is pending and no order has been received upon that.

3. Transfer is essentially an administrative matter. When a representation is pending before the superior officer, that should be allowed to be disposed of first, before this Tribunal looks into the matter on merits.

4. This application is, therefore, disposed of at this stage, not expressing any opinion on the merits of the case, with direction to the Respondent No.1, the General Manager, E.C.Railway, Hazipur to consider the representation of the applicant in accordance with the extant rules and to record speaking order thereupon within a month of the receipt of a copy of this order. The applicant is directed to provide a copy of this order along with a copy of this application, with annexures to the General Manager, E.C. Railway, Hazipur at Vaishali within a week of the receipt of certified copy of the order.

5. Till the representation is so disposed of, the implementation of the impugned order at Annexure-A/3 will remain stayed.

6. With the aforesaid directions, this O.A. stands disposed of.



[P.K.Sinha]
Vice-Chairman

mps.