

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA No. 461 of 2006**

Date of order : 20th September, 2007

C O R A M

Hon'ble Mr. Justice P.K. Sinha, Vice-Chairman
Hon'ble Mr. Amit Kushari, Member[Admn.]

Ajay Kumar Rai

Applicant

Vrs.

Union of India & Ors.

Respondents.

Counsel for the applicant : Shri Gautam Bose

Counsel for the respondents : Shri Mukundjee, SC

O R D E R [ORAL]

Amit Kushari, Member [A] :-

The applicant is a Junior Engineer Gr. II [Works] and originally belonged to South Eastern Railway. In the year 2002, the East Central Railway was created. The Railway Board invited options for posting employees in the East Central Railway with headquarters at Hajipur. The applicant exercised his option for East Central Railway but he did not get a reply and, therefore, he was under the impression that his option was rejected. Accordingly, he was mentally prepared to stay in South Eastern

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Railway and arranged the education of his children in an area falling under South Eastern Railway. But all of a sudden he was informed that his option had been accepted and he has now become an employee of East Central Railway, Hajipur. He was also relieved from South Eastern Railway and, accordingly, he joined his post at Hajipur. However, he continued to submit his representations to the authorities that he should be allowed to remain in his parent railway cadre, i.e., South Eastern Railway. Two of his colleagues who were similarly situated, i.e., Ashok Kumar and Rajeev Kumar also moved for cancelling their options, and wanted to stay at their original railway cadre. Their request had been accepted by the railway authorities. The applicant feels that he has been discriminated against and he too should have been allowed to go back to his parent cadre, i.e., South Eastern Railway. In the year 2003, the applicant's wife fell ill and on that ground he represented again for his repatriation back to South Eastern Railway. He moved an O.A. before the Central Administrative Tribunal [O.A. No. 81 of 2004] which was disposed of with directions to the respondents to consider the prayer of the applicant in accordance with law and to pass a speaking order. His representation was thereafer considered sympathetically by the Chief Personnel Officer, East Central Railway, Hajipur and they agreed to transfer him to South Eastern Railway provided

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the South Eastern Railway did not have any objection to it. In the speaking order of the Chief Personnel Officer, Hajipur a request was made to the General Manager [P], South Eastern Railway, Kolkata to give consent for repatriation of the applicant to South Eastern Railway. However, from the South Eastern Railway, an order was issued [Annexure-A/1] in which the Divisional Personnel Officer [Personnel], Ranchi who is a much junior officer compared to the Chief Personnel Officer, South Eastern Railway, Kolkata – himself disposed of the request saying that he should be treated as an employee of East Central Railway and that, if he has to come back to South Eastern Railway, it will be taken as a an inter cadre transfer and he will have to accept bottom seniority in the new cadre as per Railway Board's order of 4.7.2003. The wording of this order [Annexure-A/1] dated 28.3.2006 issued by the Divisional Personnel Officer [Personnel], Ranchi South Eastern Railway is quite at contrast with the order issued by the Chief Personnel Officer, East Central Railway, Hajipur. The Chief Personnel Officer had mentioned in his order that the applicant's parent cadre was South Eastern Railway. He had not treated him as an employee of East Central Railway and his transfer from East Central Railway to South Eastern Railway was treated as "repatriation". As opposed to this, the Divisional Personnel Officer [Personnel], Ranchi has treated this as an inter

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zonal transfer. The impugned order at Annexure-A/1 issued by the Divisional Personnel Officer [P], Ranchi also says that this was issued by the DRM[P], Ranchi himself. The approval of the General Manager [P], South Eastern Railway, Kolkata was not perhaps taken. The first line of the order says that the request of the applicant was "personally" scrutinized scrupulously by the Divisional Personnel Officer, Ranchi. The order does not mention that this was issued under the direction of the General Manager [P], Kolkata.

2. Shri Mukundjee, Id. SC appears on behalf of the respondents admitted that there was a difference of perception between the E.C. Railway and the South Eastern Railway and the best person who can take a view in this matter is the General Manager [Personnel], South Eastern Railway, Kolkata.

3. Shri Gautam Bose, Id. counsel for the applicant also agreed that this matter should be decided by the General Manager [Personnel], South Eastern Railway, Kolkata who is a superior authority and the matter could be referred to him for a decision.

4. Under the circumstances, we are of the view that the impugned order at Annexure-A/1 issued by the Divisional Personnel Officer, Ranchi has to be quashed because it was issued by an incompetent authority. This matter

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should be looked into by the General Manager [Personnel], South Eastern Railway, Kolkata for an appropriate decision.

5. We, therefore, direct the General Manager [Personnel], South Eastern Railway, Kolkata to take a decision in the matter within two months of the receipt of a copy of this order and pass a reasoned and speaking order. The impugned order at Annexure-A/1 is also hereby quashed.

6. With these directions, this O.A. stands disposed of.



[Amit Kushari]M[A]



[P.K.Sinha]VC

mps.