

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PATNA BENCH, PATNA.

O.A. No. OA 99 of 2006

Date of order : 6.4.06

C O R A M

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

Ajit Kumar, S/o Late Udho Prasad, Chief Parcel Supervisor, E.C. Railway, Sasaram, resident of Mohalla Naga Ashram, Dehri-on-sone, P.S. Dehari, Rohtas.

....Applicant

By Advocate : Shri M.P. Dixit

Vs.

1. The Union of India through the G.M., E.C. Railway, Hajipur.
2. The Chief Personnel Officer, East Central Railway , Hajipur.
3. The Chief Commercial Manager, E.C. Railway, Hajipur.
4. The Divisional Railway, Manager, E.C. Railway, Mugalsarai.
5. The Senior D.P.O., E.C. Railway, Mugalsarai.
6. The Senior D.C.M., E.C. Railway, Mugalsarai
7. The D.C.M., E.C. Railway, Mugalsarai.
8. The Station Manager, E.C. Railway, Sasaram
9. The Station Manager, E.C. Railway, Japla.

....Respondents

By Advocate : Shri B.K. Sinha

O R D E R

By Sadhna Srivastava, M ( J ):-

This application contains two prayers, firstly to



quash the order of transfer dated 13/14.6.,2005 and secondly to pay salary (period i.e., date not specified.).

2. The facts are that the applicant was posted as Chief Booking Supervisor and then Chief Parcel Supervisor at Sasaram Railway Station. By order dated 13/14.06.2005, he has been transferred as Chief Booking Supervisor, Japla <sup>✓ scale ✓</sup> in the same state of pay. The transfer order has been assailed on two grounds, firstly that it amounts to double jeopardy and secondly the Railway Board Circular No. 85-E (SCT) I – 43/1 dated 24.12.1988 requires SC/ST candidate to be posted at home station or nearby station. The second relief claimed is payment of salary.

3. Heard learned counsel for the parties and perused the records. There is no basis for the applicant to say that he has been inflicted with double punishment. The minor penalty of withholding one increment without cumulative effect by order dated 22.7.2005 , as contained in Annexure A/6, has no nexus with the order of transfer. The order of transfer , as contained in Annexure A/4, is a routine order of transfer. The

two orders can not be connected. Therefore, I do not find it to be a case of double jeopardy. The second ground of challenge is Railway Board Circular, as mentioned above and upheld in the case of B.S. Verma vs. U.O.I. & Ors, as cited by Shri Dixit, the learned counsel for the applicant. However, the decision, in the case of B.S. Verma (Supra) has been overruled by a Full Bench of the Tribunal in the case of Ch. Roosevelt vs. General Manager, S.C. Railway & Others (1997) 35 ATC 19 (F.B.). It has been held that administrative instructions cannot be enforced in a court and no writ lies for disobedience of administrative instructions. Therefore, the impugned transfer order cannot be held as bad in law on the basis of the aforesaid circular.

4. After the close of argument and before the delivery of judgment, a copy of judgment dated 5.11.2004 in OA No. 548/2004, CAT, Patna Bench, titled Gopal Jee Sharma vs. U.O.I. & Ors, has also been filed by the learned counsel for the applicant, wherein the transfer order was quashed and the respondents given the liberty to transfer the

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employee to some other station. The said decision was given on the basis of facts of that case. The facts of instant case are distinguishable. The applicant has not suffered in pay or grade. A government servant cannot claim <sup>as</sup> a right to be posted always at a bigger station. It has been clearly pleaded in the reply that the applicant was not found fit to shoulder the responsibility of 'A' category station. Therefore, he was transferred to 'E' category station. Such a decision on the part of the competent authority, unless exceptional reasons exist, is not open to judicial review by the Tribunal. The order of transfer is an incident of service. A transfer purely on administrative ground is a good and should not be interfered with as held in the case of State of U.P. vs. Siya Ram, 2004 SCC (L&S) 1009. A further observation has been made in the said decision, which reads as follows:-

"Transfer, unless shown to be malafide or in violation of statutory provisions- held -not open to interference by the Court."

5. The second relief of salary is <sup>as</sup> vague. The applicant has not specified the period for which he claims salary. The



claim is for " ..... intervening period of transfer, if not paid earlier....." It is also relevant to mention that there is no pleading in the OA about the claim of salary. It is also not known if the applicant had made a representation to the department before coming to the Tribunal in this regard. Therefore, the applicant may make a representation to the department, in the first instance, and then approach the Tribunal if the grievance is ~~not~~ redressed.

6. The OA is dismissed with the above observation.

No order as to the costs.

  
[Sadhna Srivastava] M [J]

/cbs/