

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA No. 499/05[MA 297/06]

Patna, Dated the 2nd June, 2006

CORAM: The Hon'ble Mr. S.N.P.N. Sinha, M[A]

Ashish Ranjan, son of Sri Hari Narain Srivastava, Mohalla Khurmabad, PS Mufassil, Siwan, District Siwan, presently posted in Katihar Division as JE/II [P.Way], Azamnagar Road.

Applicant

By Advocate: Shri R.K.Pathak

versus

1. The Union of India through General Manager[P], Maligaon, N.F.Railway, Guwahati-II.
2. DRM[P] [Alipur Dwar], N.F. Railway, APDJ.
3. The General Manager[P], EC Railway, Hajipur.
4. The Asstt. Personnel Officer, Engineering, Maligaon, Guwahati.

Respondents

By Advocate: Shri Mukund Jee

O R D E R

S.N.P.N.Sinha, M[A]:

The present application has been filed for quashing the order dated 30.7.2003 issued from the office of the General Manager[P], Maligaon by which the respondent has not agreed to spare the applicant from N.F. Railway to E.C. Railway and to direct the respondents to spare the applicant by 31.10.2003 and also for direction for payment of salary for the period 14.10.2003 to 19.11.2003. The application was filed on 15.4.2005. At the outset itself the Tribunal queried on the application being time-barred. Subsequently, on 25.10.2005 a supplementary application was filed which is on record. This was followed by direction from the Tribunal for removal of certain defects, later it was found that certain Annexures referred to by the respondents were not on record. Again an MA was filed for condonation of delay which again had certain defects. These were since removed. The MA has been heard along with the OA and it is

allowed. The original application is now taken up for consideration.

2. As per the case of the applicant, it has been said that he was appointed as Apprentice Junior Engineer [P.Way], and for the purpose of training he was attached to Senior DEN, Alipur Dwar for the period of one year. The letter of appointment is dated 8.7.2002. On 27.8.2002, he made a representation for transfer to E.C. Railway, Hajipur followed on 30.10.2002 by his father approaching a Member of Parliament for such transfer. On 20.12.2002, GM[P], Hajipur requested for release of staff who had opted for E.C.Railway, Hajipur. On 30.7.2003, GM[P], Maligaon issued a letter to the effect that competent authority had not agreed to spare the applicant for E.C.Railway in view of acute shortage of staff in P.Way cadre and directed him to report to SSE [P.Way], NMX. Subsequently, a communication was made dated 22.9.2003 by which some officers including one Sri Sanjay Kumar Singh were transferred under E.C.Railway, Hajipur. Again by a communication dated 29.9.2003 a direction was issued for directing all staff whose options of transfer to Headquarter Offices of new Zonal Railways had been accepted by new Zonal Railways to be spared by 31.10.2003 and since the new Zonal Railways were not able to accommodate the staff all at a time, the paper lien of staff as on 31.10.2003 to be transferred for the time being and a suitable date, not later than 30.10.2004 to be worked out between the old and the new Zonal Railways. For physical transfer of such officers. Subsequently, on completion of training, the applicant was appointed as JE II[P.Way] by order dated 18.11.2003 and posted under DRM, Katihari.

3. Written statement has been filed on respondents' behalf to the effect that the applicant was an Apprentice under training and, as such, he was not eligible for submitting option. It is also said that bringing political influence for a service matter was not in accordance with Conduct Rules of railway servants. The application of the applicant exercising his option was also not forwarded by N.F. Railway where he was under training. The case of Sanjay Kumar Singh, JE II[P.Way] that has been cited in the application is different, it is said. He was appointed on 29.8.1996 and he completed his training on 30.9.1997.

8

He submitted his option through proper channel and was transferred as stated in the application. When the applicant completed his training, his paper lien was transferred to E.C. Railway, Hajipur as directed in the letter of the Railway Board dated 29.9.2003. According to the subsequent letter of N.F.Railway dated 28.1.2005, requirement of six officers was communicated and the consent of E.C.Railway, Hajipur was sought for cancellation of order of paper lien transfer of nine officers including the applicant who had not been physically spared.

4. It appears from the record and the pleadings made on behalf of the two sides that the instructions of the Railway Board contained in their letter dated 29.9.2003 were implemented. It is also obvious that the applicant started making representations for his transfer from 27.8.2002 whereas he was appointed as Apprentice under training by letter dated 8.7.2002. It is also on record that the application was filed before this Tribunal on 25.4.2005 for quashing the order dated 30.7.2003 which was a communication from the competent authority denying relieving of the applicant for E.C.Railway, Hajipur since there was shortage of hands in N.F.Railway. After the applicant was appointed in regular fashion on completion of training as Apprenticeship, his paper lien, as directed by the Railway Board, was transferred to E.C.Railway Hajipur. Now for seeking a transfer to E.C.Railway, Hajipur is a separate service matter which may be cause of action for the applicant to move departmentally for consideration. As for the other relief sought for payment of salary for the period 14.10.2003 to 19.11.2003, it has been stated in the respondents' written statement that direction has already been given for such payment.

5. It appears that there is no occasion for any action with regard to the order of N.F.Railway dated 30.7.2003 now as it has since been followed by subsequent developments which have rendered it infructuous. The application is, therefore, disposed of at the admission stage itself.



[S.N.P.N. Sinha]

Member[A]

cm