

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO:853/2000

DATE OF DECISION: 22.12.2000

Shri D.G.V.Ashwini Kumar Applicant.

Shri R.K. Srivastava Advocate for
Applicant.

Versus

The General Manager, South Eastern Railway Respondents.
and others.

Shri Nitin Lambat. Advocate for
Respondents

CORAM

Hon'ble Ms. Shanta Shastry, Member (A)

(1) To be referred to the Reporter or not?

No

(2) Whether it needs to be circulated to
other Benches of the Tribunal?

(3) Library. *Yes*

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(Ms. Shanta Shastry)
Member (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO: 853/2000

FRIDAY the 22nd day of DECEMBER 2000

CORAM: Hon'ble Ms. Shanta Shastray, Member (A)

D.G.V. Ashwini Kumar
Permanent Way Inspector Gr.I
O/o Dy. Chief Engineer,
(Construction), South Eastern
Railway, Nagpur Maharashtra.Applicant.

By Advocate Shri R.K. Srivastava.

V/s

1. The General Manager,
South Eastern Railway,
Garden Reach, Calcutta,
West Bengal.
2. The Chief Administrative
Officer, (Construction)
South Eastern Railway
Chandrashekarpur,
Bhubneshwar (Orissa)
3. The Chief Engineer (Construction)
South Eastern Railway,
Bilaspur (Chattisgarh State)
4. The Deputy Chief Engineer,
(Construction) South Eastern
Railway, Nagpur Maharashtra State.
5. The Divisional Engineer,
(Construction) South Eastern
Railway, Gondia,
Maharashtra State.Respondents.

By Advocate Shri Nitin Lambat.

ORDER (ORAL)

(Per Ms. Shanta Shastray, Member (A))

The applicant has been transferred from Balaghat under the control of Nagpur Division to Calcutta vide letter dated 25.11.2000 from Dy. Chief Engineer (Constrn.) Nagpur. It is the contention of the applicant that he has been transferred frequently at least half a dozen times during three years. The applicant

applicant was appointed as Permanent Way Inspector Grade III. The same designation was re-designated as Junior Engineer (Permanent Way) Grade I and II. The applicant had prayed for interim relief for staying the transfer order. Since he had stated that he had not yet been relieved and the Calcutta office has not accepted him in Calcutta, the respondents were directed to maintain status quo for 14 days. Notice was issued to the respondents. The reply has just been brought today by the respondents.

2. The learned counsel for the applicant is seeking time to file rejoinder in the matter. The learned counsel for the applicant also pleads that at least the applicant may not be disturbed for a period of three months, till the examinations of the children are over who are studying in Balaghat. He further stated that the medium of instruction will also be different. He therefore requests that at least the transfer be effected after March 2001.

3. The learned counsel for the respondents submits that the applicant is on a project. Whenever the project gets over he is shifted to another project where the vacancies are available. Earlier also he was transferred on administrative grounds. It has been further stated that the project staff is on deputation subject to availability of funds. Due to non-availability of funds during the year 36 Nos of staff have already been transferred to the division where they were holding a lien. In the case of the applicant his lien is at Bilaspur. However for want of vacancy there the applicant has been accommodated at

Calcutta. Therefore no malafide in the transfer of the applicant nor is it against any statutory rules. Therefore the impugned order does not call for interference by this Tribunal.

4. I have heard both sides and I find that the applicant has been shifted solely because there is no work available in Balaghat project and he has been accommodated in Calcutta as there was no vacancy in the parent division. Obviously there is no malafide or violation of any statutory rules and therefore it is not for the Tribunal to find fault with the transfer order. The relief therefore cannot be granted in cancelling the transfer order.

5. As the transfer is in the mid academic session, the applicant is at liberty to make a representation within a fortnight to the respondents requesting for retaining him for a further period of three months i.e. till 31.3.2001. The respondents shall consider the representation within a fortnight thereafter. The interim relief of status quo shall stand vacated after the representation of the applicant is decided. The OA is disposed of accordingly. No costs.

Shanta Shastray

(Ms. Shanta Shastray)
Member(A)

NS