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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::::GUWAHATI-5.

O.A.No. 19 of 1998.

25-3-1998.
DATE OF DECISION.....

!! Shri Robin Deka (PETITIONER(S))

Shri G.K.Bhattacharya. ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India & Ors. RESPONDENT(S)

Shri J.L.Sarkar, Railway standing ADVOCATE FOR THE
counsel. RESPONDENTS.

THE HON'BLE JUSTICE SHRI D.N.BARUAH, VICE CHAIRMAN

THE HON'BLE SHRI G.L.SANGLYINE, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Administrative Member.

Ganguly
25/3/98

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 19 of 1998.

Date of Order : This the 25th Day of March, 1998.

Justice Shri D.N.Baruah, Vice-Chairman.

Shri G.L.Sanglyine, Administrative Member.

Shri Robin Deka
Son of Late G.C.Deka,
Head Master, Netaji Vidyapeeth
Railway H.S.School, Maligaon.

... . . . Applicant.

By Advocate Shri G.K.Bhattacharya.

- Versus -

1. Union of India
represented by the General Manager,
N.F.Railway,
Maligaon.

2. General Manager (P)
N.F.Railway,
Maligaon.

3. Chief Personnel Officer,
N.F.Railway, Maligaon.

... . . . Respondents

By Advocate Shri J.L.Sarkar,
Railway standing counsel.

O R D E R

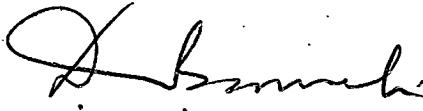
G.L.SANGLYINE, ADMINISTRATIVE MEMBER

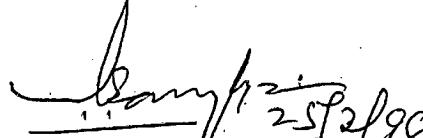
The applicant was posted as Head Master (Group B), Netaji Vidyapeeth Railway Higher Secondary School, Maligaon against the existing vacancy of Principal (Senior Scale), to be temporarily operated as Head Master (Group B) on 1.3.1996. He continued to hold the post till he was transferred and posted as Head Master (Group B) in Railway High School, Dimapur against an existing vacancy on 12.1.1998. He has impugned this transfer Order No. 03/98(SCHOOL) conveyed vide Memo No. E/283/148/Pt.I (O) dated 12.1.1998, Annexure-IV in this O.A. He has contended that this order of transfer

was issued simply to circumvent the interim order dated 21.3.1997 issued by this Tribunal in O.A.61/97 directing the respondents therein not to revert the applicant until further orders. He also contends that by posting him to Dimapur far away from his home district the respondents had violated the guidelines contained in Railway Board letter No.E(SCT)70CM15/15/3 dated 19.11.1970 protecting the interest of the members of Scheduled Castes and Scheduled Tribes in matters of transfer. This according to the applicant amounts to malice in law. Heard learned counsel of both sides.

2. The post of Principal (Senior Scale) in the School at Maligaon was temporarily down-graded on 1.3.1996 to accommodate the applicant. On 16.6.1997, this post was restored to its original grade. Another person was posted against the post. However, in order to accommodate the applicant the respondents temporarily transferred to Railway School cadre a Group B post of ACOS/HQ for operation as Head Master (Group B) in the Netaji Vidyapeeth Railway Higher Secondary School, Maligaon. The applicant was posted against the post. On 12.1.1998 this post was restored to its original department and, as a result, the applicant was transferred and posted to Railway High School, Dimapur as Head Master (Group B). The applicant has submitted the O.A.61/97 on 20.3.1997 disputing the seniority. The interim order dated 21.3.1997 was issued in that case not to revert the applicant, who was working as Head Master (Group B) as stated above, until further orders. There is, therefore, no force in the contention of the applicant that the transfer order dated 12.1.1998 was to circumvent the aforesaid interim order when the applicant was transferred to the School at Dimapur in the same capacity.

We cannot also accept that there is any malice in law when the applicant who is a member of Scheduled Caste and belonging to Rangia is transferred to Dimapur. The guidelines of the Railway Board mentioned above have specifically mentioned that the instructions to post SC and ST employees in their native districts or adjoining districts are to be followed to the maximum extent possible subject to the exigencies of service. The respondents know best as regards the exigencies of service of their administration. In view of the position of vacancies as narrated above it does not appear to us that the respondents had with any mala fide intention transferred the applicant to Dimapur by ignoring the above guidelines of the Railway Board. In matters of transfer only when there is mala fide or violation of statutory rules the Tribunal will interfere. We do not find that any mala fide has been established in the present case by the applicant or that statutory rules pertaining to transfer have been violated. As such we find no merit in the application. Accordingly, we hereby dismiss the application. However, we make no order as to costs.


(D.N.BARUAH)
VICE CHAIRMAN


(G.L.SANGAYINE)
ADMINISTRATIVE MEMBER