

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. NO. 74 of 1998.

2-6-1999.
DATE OF DECISION.....

Shri Subal Chandra Dey

(PETITIONER(S))

S/Shri S.R.Bhattacharjee and S.R.Roy

ADVOCATE FOR THE
PETITIONER(S)

-VERSUS-

Union of India & Ors.

RESPONDENT(S)

Sri S.Sengupta, Railway counsel.

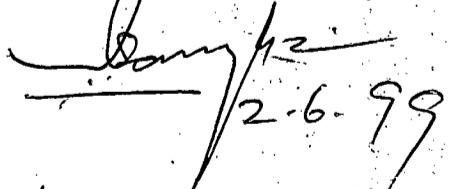
ADVOCATE FOR THE
RESPONDENTS.

THE HON'BLE ~~SHRI~~ ~~SHRI~~ H.M. ~~XXXXXX~~, ~~XXXX-XXXXXX~~.

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.


2-6-99

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 74 of 1998.

Date of Order : This the 2nd Day of June, 1999.

Shri G.L.Sanglyine, Administrative Member.

Shri Subal Chandra Dey,
Village - Krishnanagar,
P.O. Dullabcherra,
Karimgang, Assam.

... Applicant.

By Advocate S/Shri S.R.Bhattacharjee
and S.R.Roy.

- Versus -

1. Sri Dipankar Bhattacharjee
aged about 50 years,
Permanent Way Inspector,
N.F.Railway, Karimganj,
P.O. & Dist. Karimganj, (Assam).

2. Union of India
through the Secretary, to 1
Ministry of Railways,
New Delhi.

3. General Manager,
North-Eastern Frontier Railway,
Maligaon, Guwahati-11.

4. Divisional Railway Manager,
N.F.Railway, Lumding,
P.O. Lumding, Dist.Nagaon.

... Respondents.

By Advocate Sri S.Sengupta, Railway counsel.

O R D E R

G.L.SANGLYINE, ADMN MEMBER,

The applicant was working as a Gangman of North East Frontier Railway at Dullabcherra under Lumding Division at the relevant time. He was transferred by order No.O/1-3223 dated 22/24.12.1996 from Gang No.8 KD to Gang No. 43 LM, under i.e. from Dullabcherra to Mahishasham under the same administrative control. The order was on administrative ground and was to take immediate effect. This order was issued by the Permanent Way Inspector, N.F.Railway, Karimganj, who is not the respondent in this O.A. The applicant had once submitted

contd..2

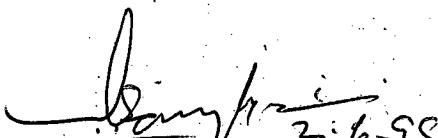
Original Application No.249 of 1997 against the transfer order and the O.A. was disposed of vide order dated 19.11.1997 with direction to the applicant to submit appropriate representation to the competent authority of the respondents within 15 days from that day stating all his grievances in the regard with his transfer and, if such representation is received, the respondents were directed to dispose of the representation with a speaking order within one month from the date of receipt of the representation from the applicant. It was also ordered that the operation of the transfer order shall be kept in abeyance by the respondents till disposal of the representation, if the applicant was not already released. According to the applicant, in compliance to the order he had submitted representation dated 26.11.1997 to the Divisional Railway Manager, N.F.Railway, Lumding with copies to the Secretary to the Ministry of Railways, New Delhi and the General Manager, N.F.Railway, Maligaon, Guwahati for information and necessary action. This representation was sent by registered post on 26.11.1997 and the General Manager N.F.Railway had, as evident from the Postal A/D Card, received the representation on 1.12.1997. The Railway authority however, did not dispose of his representation. He was not paid pay and allowances from January, 1997. In this circumstances he had again submitted the present O.A. praying for setting aside the order of transfer and to pay him monthly salary and allowances from January 1997 onwards.

2. According to the applicant the order of transfer was issued mala fide. His wife is averse to living together with the widow and sickly mother of the applicant. She insisted on living separately. The applicant cannot however, agree to such a demand of his wife. Therefore his wife and her

parents approached respondent No.1, Sri Dipankar Bhattacharjee, for use of his office or official power to force the applicant to consent to the demand of his wife. The respondent No.1 supported the demand of the wife of the applicant and asked the applicant to concede to the demand. But when the applicant refused, the respondent No.1 became infuriated and issued the order of transfer of the applicant with a mala fide intention and sole motive of separating the applicant from his mother. Another ground of the applicant to support the contention that the order was issued mala fide is that a number of Gangman who were stationed in Dullabcherra longer than the applicant were retained in the station while he was transferred. According to the respondents, however, the order of transfer was not issued with any mala fide intention but it was issued purely on administrative ground and public interest. The applicant was a junior most amongst the experienced staff and his service was required in Mahishashan in connection with the works of the Railways there. They also submitted that the applicant was already released from his duty in Dullabcherra on 27.1.1997. I have heard learned counsel of both sides. The representation of the applicant submitted in pursuance of the directions given by the Tribunal in the earlier O.A. was received by the General Manager, N.F.Railway, Maligaon on 1.12.1997 and copies were sent to other respondents by Registered Post. The General Manager or any other Respondents did not dispose of the representation. The ground given by the respondents is that in a large organisation like the Railways it is not possible to connect papers unless these are routed through proper channel. The applicant did not submit the representation through proper channel. Mr Bhattacharjee however submitted that the O.A. may be disposed of on merit. Nevertheless after hearing counsel of both sides

and due consideration I am of the view that the ends of justice will be served if the respondents dispose of the representation dated 26.11.1997, Annexure-3 and thereafter, if the applicant is still aggrieved he may approach the Tribunal. Following the direction in the order dated 19.11.1997 in O.A. 249 of 1997 the applicant submitted the representation to the Divisional Railway Manager, N.F.Railway, Lumding, who is respondent No.4 in the present O.A. Therefore, apparently, the respondent No.4 is the competent authority as stipulated in the order dated 19.11.1997. Accordingly, I direct the respondent No.4, the Divisional Railway Manager, N.F.Railway, Lumding to dispose of the representation dated 26.11.1997, Annexure-3, submitted by the applicant to him by a speaking order after hearing the applicant personally. The respondent No.4, the Divisional Railway Manager, N.F.Railway, Lumding shall communicate the order to the applicant within 60 days from the date of receipt of this order.

The application is disposed of. No order as to costs.


(G.L.SANGLYINE)
ADMINISTRATIVE MEMBER