

Central Administrative Tribunal
Jabalpur Bench

OA No.406/06

Jabalpur, this the ^{August} 2nd day of July 2006.

CORAM

Hon'ble Dr.G.C.Srivastava, Vice Chairman

Hon'ble Mr.A.K.Gaur, Judicial Member

Brindawan Parsati

S/o Parasati

R/o RB-II, Railway Colony

Behind Railway Station Beohari (M.P.)

Applicant

(By advocate Ms.Jai Laxmi Aiyer on behalf of
Smt.J.Chaudhary)

Versus

1. Union of India through
General Manager
West Central Railway
Jabalpur Zone
Jabalpur.
 2. Chief Signal Telecommunication Engineer
West Central Railway
Jabalpur.
 3. Divisional Railway Manager (P)
West Central Railway
Jabalpur.
 4. Senior Divisional Signal Telecommunication Engineer
West Central Railway
Jabalpur.
- Respondents

(By advocate Shri V.Tripathi)

ORDER

By A.K.Gaur, Judicial Member

The applicant is aggrieved by the orders dated 28.3.06 (A-1) and 2.6.06 (A-1/A), transferring him to Bakhleta.

2. The brief facts of the case are that the applicant was appointed on 3.9.73 at Satna as Khalasi. He has been working under the administrative supervision of Section Engineer (Signal) Beohari. Due

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to malafide of respondent No.4, the applicant has been transferred from Beohari to Bakhleta Station which is nearer to Damoh station. After making an unsuccessful representation, the applicant filed OA No.232/06 which was disposed of by this Tribunal vide its order dated 7.4.06 directing the authorities to decide his representation. Thereafter, a modified order was issued by the respondents stating that the applicant is entitled to transfer allowances. It is contended on behalf of the applicant that the order of the respondents smacks of arbitrariness.

3. The case of the applicant has been contested by the² respondents by filing a reply in which it is stated that the entire signaling assets of the Bakhleta station has been modernized with all safety function to eliminate chances of accident on account of human/station staff failure. Since no manpower is currently available to maintain these assets at Bakhleta station, the applicant has been transferred from Beohari to Bakhleta for six months on temporary basis to maintain the signaling assets installed at Bakhleta station. It is further contended by the respondents that in compliance with the order of this Tribunal dated 7.4.2006 passed in OA No.232/06, the representation of the applicant was decided by the competent authority on 5.5.06. Since there was no substance in the representation of the applicant, the same was rejected vide order dated 5.5.2006 by passing detailed, reasoned and speaking order. Thereafter, the applicant was relieved from Beohari to join his duty at Bakhleta on 16.5.2006. The earlier order dated 28.3.06 was amended in order to provide transfer allowances to the applicant, as the transfer was made in public interest.

5. Learned counsel for the respondents has relied upon the decision in the case of State of U.P. & Others Vs. Ashok Kumar Saxena & another, reported in 1998 (3) SCC 303, in which the Hon. Supreme Court has held that "transfer of employee is within the prerogative of the government. Hence it can withdraw, alter or modify any previous order of transfer". The learned counsel has finally submitted that there is no illegality in the order of transfer dated 2.6.06.

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6. We have heard the learned counsel for the parties and perused the records. The learned counsel for the applicant has failed to show any ground warranting our interference with the transfer order of the applicant, which has been passed in administrative exigency. In order to interfere with a transfer order, one of the following three grounds is to be established:

- (i) The transfer order is malafide.
- (ii) The transfer order is punitive in nature or passed by an incompetent authority.
- (iii) The transfer order is passed in violation of statutory rules.

7. None of the above said grounds has been brought out by the applicant. The allegation of malafide levelled against respondent No.4 is based on no foundation. There is no specific instance of malafide. It is the prerogative of the Railway Administration to decide which employee should be posted where and when, according to the needs of the administration. Moreover, transfer is an incident of service. The applicant has also failed to implead any particular officer as one of the respondents in order to sustain the allegation of malafide.

8. In view of the above discussion, we are not inclined to interfere with the transfer order impugned in the present OA. The OA is devoid of merits and is dismissed. No costs.

A.K. Gaur
(A.K. Gaur)
Judicial Member

Dr. G.C. Srivastava
(Dr. G.C. Srivastava)
Vice Chairman

32.

पूरांकन सं ओ/न्या.....जवलपुर, दि.....
पत्तिलिपि वाले रिक्त:-

- (1) सचिव, उच्च न्यायालय और एडमिनिस्ट्रेशन, जवलपुर
- (2) आवेदक श्री/श्रीमती/शु.....के काउंसल
- (3) प्रत्यर्थी श्री/श्रीमती/शु.....के काउंसल
- (4) मंडपाल, कोप्रअ., जवलपुर जिला, जिला

सूचना एवं आवश्यक कार्यवाही हेतु

उप-रजिस्ट्रार

Issued
3/8/06