

Central Administrative Tribunal
Jabalpur Bench

OA No.300/05

Received this the ^{22nd} day of June, 2005.

C O R A M

Hon'ble Mr.M.P.Singh, Vice Chairman
Hon'ble Mr.Madan Mohan, Judicial Member

Pannalal
Senior Sectional Engineer
(P.Way I.E.SSE (PW)
South East Central Railway
Balghat (M.P.)

Applicant

(By advocate Shri M.R.Chandra)

Versus

1. Union of India through
General Manager
South East Central Railway
Bilaspur.

2. The Divisional Railway Manager
Kingsway, Nagpur.

3. The Senior Divisional Engineer
(Co-ordination) South East
Central Railway
Nagpur.

Respondents.

(By advocate Shri M.N.Banerjee)

O R D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicant has sought the following reliefs:

- (i) To hold that the transfer orders (Annexure A1) of the applicant suffers from infirmities and to direct the



respondents to issue orders approved by respondent No.2 in keeping with the principles embodied in para 5 (i), (ii), (iii) and (iv).

2. The brief facts of the case are that the applicant who is in charge SSE (P.W), Balghat, was transferred vide order dated 10.3.05 (Annexure A1). Against the said orders, he submitted a representation dated 7.3.2005 to respondent No.2 stating that the order suffers from infirmities. The transfer orders are not comprehensive in respect of staff staying at a station in excess of prescribed tenure of 4 years. The applicant alleges favoritism as one Shivduti Khanddonath is transferred to his choicest station. The transfer episode has become unreserved versus reserved community, in contravention of Articles 14, 15 and 16 of the Constitution of India. The action of the respondents is vindictive, as the transfer order does not speak about transfers of certain people who belong to unreserved community and who continue in excess of tenure of service at a station. The applicant hails from Jaunpur (UP). The applicant is willing to move any place where medical facility and educational opportunity exist. Hence this OA is filed.

3. Heard learned counsel for both parties. It is argued on behalf of the applicant that the applicant belongs to SC community and according to the O.M. dated 24.6.85 of the DoPT, certain guidelines are provided for the employees who belong to SC/ST community but the respondents have not complied with these guidelines. Many employees who have completed more than 4 years of stay at the same station are not transferred and the respondents have not given any reason why only the applicant is picked up for transfer. Shri Shivduti Khanddonath is getting less pay than the applicant i.e. Rs.6500-10500/- while the applicant's pay scale is Rs.7450-11500/-. Even then, Shri Shivduti is ordered to be transferred in place of the



applicant, which is against rules and the impugned order is not passed by the competent authority. Hence the transfer order is liable to be quashed and set aside.

4. In reply, learned counsel for the respondents argued that the applicant has been transferred from Balaghat to Gondia vide order dated 10.3.2005 on purely administrative interest. The applicant has served at Balaghat for more than 7 years while the normal tenure of a Central Government employee is 4 years. That other employees who have completed more than 4 years are not transferred cannot be a valid ground for the applicant to stake his claim. Gondia district is only 40 km away and this transfer does not affect him at all. The OM issued by the DoPT does not contain any mandatory instructions. Transfer has nothing to do with pay scales. The applicant has failed to allege any malafide against the respondents in his transfer. Learned counsel further argued that transfer is an incidence of service and being a Central Government employee, he has got an All India transfer liability. The respondents have not violated any rule and the transfer order is passed by the competent authority. Learned counsel further argued that Shivduti Kanddonath has reported for duty at Balaghat on 4.3.05 and the respondents have produced a photocopy of the order dated 4.3.05 while the learned counsel of the applicant has denied this fact and argued that the applicant is still working at his present place of posting.


5. After hearing the learned counsel for the parties and perusing the records, we find that the applicant belongs to SC community. We have perused the OM dated 24.6.85 issued by the DoPT. In the case of Laxmi Narain Mehar Vs.UOI and others 1997 SCC (L&S) 643, the Hon'ble Supreme Court has held that "Transfer - Grounds for - Administrative exigency - Petitioner transferred because there was a need for experienced staff - Transfer, held, valid - Further held, though SC/ST employees are entitled to be considered for posting

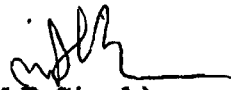


near their home towns, yet this concession was also subject to administrative exigency – Petitioner's plea of transfer being made as a vindictive measure also rejected – He, however, given liberty to make a departmental representation – Reservations and Concessions – SCs, STs and OBCs – Transfer near home town.”

6. The respondents have transferred the applicant in administrative interest, as is clearly mentioned in the impugned order. The applicant has served at Balaghat station for a period of 7 years, as admitted by both parties. He is transferred to Gondia which is 40 km from Balaghat. Hence it cannot be said that the transfer is punitive in nature. That the applicant is getting a higher pay cannot also be a valid ground for his claim as the respondents are not increasing the pay scale of Shivduti Khanddonath who is getting less pay than the applicant. The transfer order is issued with the approval of the competent authority, as is mentioned in the order. The applicant has not alleged any malafide intention on the part of the respondents in his transfer.

7. Considering all facts and circumstances of the case, we are of the considered opinion that the OA has no merit. Accordingly, the OA is dismissed. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

aa.

पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....
सतिलिपि अचो धित:-

- (1) सचिव, उच्च न्यायालय वार एजेंसिएशन, जबलपुर
- (2) आवेक श्री/श्रीमती/कु.....के काउंसल
- (3) प्रचार्य श्री/श्रीमती/कु.....के काउंसल
- (4) बांदापल, रवेपल, जबलपुर जलपरी
सूचना एवं आवश्यक कार्यवाही हेतु

रजिस्ट्रार

M.R. Chandra
M.N. Banerjee

File
30/6/05