(OPEN COURT)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD

This the **25th** day of ***MAY 2018***.

ORIGINAL APPLICATION NO. 550 OF 2018

HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).

1. Raj Kumar Gupta S/o Late Ram Daur, Aged about 38 years, R/o House No. 754-B, Rai Colony, Mohaddipur, Gorakhpur, Presently working as Technician Grade-I (GER Shop), Mechanical Workshop, N.E. Railway Gorakhpur. (Ticker No. E/1328).

.....Applicant

VER S U S

1. Union of India through General Manager, N.E. Railway, Gorakhpur.
2. Chief Workshop Manager, N.E. Railway, Gorakhpur.
3. Dy. Chief Workshop Manager (Personnel), N.E. Railway, Gorakhpur.

.....Respondents

Advocate for the Applicant : Shri S K Om

Advocate for the Respondents : Shri P K Rai

O R D E R

The applicant has assailed the order of transfer dated 16.05.2018, where the applicant has been transferred from Gorakhpur to Izzatnagar.

2. The applicant has taken the following grounds for the invalidation of the order:-

(i) the impugned order is punitive in nature as the applicant has been transferred from Gorakhpur to Izzatnagar based on a report published in newspaper.

3. Shri S K Om, learned counsel for the applicant vehemently argued that the impugned order cannot be sustained in the eyes of law as it is not an administrative order, rather it is a punitive posting. To buttress his claim, he placed reliance on the order passed by this Court in ***OA No. 672 of 2016 – Umesh Chandra Srivastava Vs Union of India and others decided on 01.06.2017*** which has also been upheld by the jurisdictional High Court in Writ Petitioned filed by the Union of India – ***WP No. 40281 of 2017 decided on 01.02.2018***. He has also referred to the judgement passed by the Hon'ble Supreme Court in the case of **Someshi Tiwari Vs Union of India and others (2009) 2 SCC 592**. He also prayed that pending the Original Application, the operation of the impugned order be stayed.

4. Issue notice to the respondents.

5. Shri P K Rai, counsel, who is in receipt of the notice appeared. He opposed the prayer on the ground that before approaching this Court the applicant has not submitted any representation, therefore, in terms of the law laid down by the ***Hon'ble Supreme Court in the case SC Saxena Vs Union of India 2006 (9) SCC 583*** the Original Application may be dismissed as devoid of any merit.

6. I have given my thoughtful consideration to the matter and have also considered the submissions made by the counsels for the parties.

7. Apparently, the impugned transfer order has been passed based upon a report submitted by the RPF and acting upon the advice, the applicant has accordingly been transferred. Since the

applicant has not submitted any representation and has directly approached this Tribunal, therefore, no relief can be granted to him at this stage. Accordingly, the applicant is directed to submit a representation within 7 days from today to the competent authority, amongst the respondents, who shall decide the representation within 15 days thereafter by passing a reasoned and speaking order. Till the respondents decide the representation, the impugned transfer order shall remain stayed.

8. If the respondents decide the representation within seven days, against the applicant, then order shall not be given effect for another seven days thereafter.

9. With the above direction the OA is disposed of. No order as to costs.

10. The disposal of OA may not be construed as an expression on the merit of the case.

(SANJEEV KAUSHIK)
MEMBER-J

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