

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

O. A. No. 260/272 OF 2013
Cuttack, this the 02nd day of January, 2018

CORAM
HON'BLE MR. S. K. PATTNAIK, MEMBER(J)
HON'BLE DR. M. SARANGI, MEMBER (A)

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Shubhendu Sekhar Kar,
aged about 39 years,
S/o. Harish Chandra Kar,
working as Ch. Office Superintendent/
E.Co. Rly. HQ/ECoR Sadan,
Chandrasekharpur, BBSR,
Permanent resident of Sushila Sadan,
Kapileswarpur(Bada Sasan),
Jajpur Town, Dist- Jajpur, Odisha.

...Applicant

(By the Advocate-M/s. N. R. Routray, J. Pradhan, T. K. Choudhury)

-VERSUS-

Union of India Represented through

1. General Manager, E.Co.Rly, E.Co.R. Sadan, Chandrasekharpur, Bhubaneswar, Dist-Khurda.
2. Sr. Deputy General Manager-cum-Chief Vigilance Officer/East Coast Railway/EcoR Sadan, Chandrasekharpur, Bhubaneswar, Dist-Khurda.
3. Chief Mechanical Engineer/ East Coast Railway/EcoR Sadan, Chandrasekharpur, Bhubaneswar, Dist-Khurda.
4. Secretary to General Manager/ East Coast Railway/EcoR Sadan, Chandrasekharpur, Bhubaneswar, Dist-Khurda.
5. Chief Personnel Officer/ East Coast Railway/EcoR Sadan, Chandrasekharpur, Bhubaneswar, Dist-Khurda.
6. Mr. Indra Ghosh, General Manager, East Coast Railway, EcoR Sadan, Chandrasekharpur, Bhubaneswar, Dist-Khurda.

7. Mr. Manoj Ku. Mishra, Secretary to General Manger, E.Co. Rly., E. Co. R. Sadan, C. S. Pur, Bhubaneswar, Dist-Khurda.

8. Mr. Prem Chandra, Chief Mechanical Engineer, E.Co. Rly., E. Co. R. Sadan, C. S. Pur, Bhubaneswar, Dist-Khurda.

9. Mr. Subrat Tripathy, Sr. Deputy General Manager-cum-Chief Vigilance Officer/ E.Co. Rly., E. Co. R. Sadan, C. S. Pur, Bhubaneswar, Dist-Khurda.

10. Deputy Chief Mechanical Engineer/HQ/East Coast Railway/ECoR Sadan, Chandrasekharpur, Bhubaneswar, Dist-Khurda.

11. Mr. Santosh Kumar Patro, Deputy Chief Mechanical Engineer/HQ/ East Coast Railway/ECoR Sadan, Chandrasekharpur, Bhubaneswar, Dist-Khurda.

...Respondents

(By the Advocate- Mr. T. Rath)

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O R D E R

S. K. PATTNAIK, MEMBER (JUDL.):

In a second round litigation, the applicant challenges the speaking order dated 01.05.2013 (Annexure-A/23) by which his representation for quashing of the transfer order dated 01.04.2013 (Annexure-A/20) has been rejected. Earlier, the applicant had approached this Tribunal in O.A. No. 193/2013 challenging the transfer order dated 01.04.2013 by which he was transferred from Bhubaneswar to Sambalpur on administrative interest. This Tribunal had given liberty to the applicant to make a suitable representation to General Manager, E.Co.Railways, seeking appropriate relief and soon thereafter the applicant made representation on 17.04.2013, which has been disposed of by the General Manager as per the impugned order dated 01.05.2013.

2. In a case of transfer the reason for rejection of representation need to be pointed out as is reflected in the speaking order. Relevant portion of speaking order is extracted below:

“Further almost all the sections are at planning stages of doubling of track bringing a number of sidings to its fold and necessitating its timely finalization. In addition to the routine works, the workload of Mechanical Department of the division has increased manifold with outsourcing activities and introduction of new trains. Existing staff strength in the ministerial cadre is inadequate to cater to the requirement of the department. In order to keep pace with the workload and for smooth functioning of the divisional works of Mechanical Department, the DRM/Sambalpur, vide letter dated 22.03.2013 requested for transfer of two posts at the level of Office Supdt. along with incumbents. As Shri S. S. Kar, Chief Officer Supdt., who was earlier working at Sambalpur Division in Mechanical Department, is well acquainted with the nature of works of the department and being energetic young man, it was felt that he could be able to manage the work burdens smoothly. Keeping this in view, Shri S. S. Kar, Ch. OS has been transferred to Sambalpur Division on administrative ground.

Further that Shri Kar made various allegations relating to the sports activities. In this context, it is stated that these allegations are extraneous ones and no way related to his transfer to Sambalpur Division. However, under RTI Act, he had sought certain information which has been replied to him vide DGM & CPIO/E.Co.Rly letter No. E. Co. R/GA/RTI/892/12 dated 01.04.2013.

His transfer order has been issued keeping in view of the administrative requirement and exigencies of services.

3. The ground taken by the applicant in challenging such transfer order is that in view of option exercised by him he was transferred and posted at E.Co.Railways/HQ and after his permanent

absorption got three regular promotions. For absorption in the Headquarter, he had lost his seniority and promotional avenues in previous lien maintaining unit, i.e. Sambalpur Division, only to work at Headquarter. He was an optee and had not come to the Headquarter with his post but now he has been transferred from Headquarter to the Office of DRM, Sambalpur along with his post, which shows the high handedness of the authorities and malafide intention. According to Ld. Counsel for the applicant, from the date of formation of E.Co.Railways, i.e. 01.04.2003, till today not a single optee has faced the order of transfer from Headquarter and since the applicant's cadre belong to Unit/Divisional and not Zonal, his transfer from headquarter to Sambalpur division is not permissible except in the case of punishment. In case of his transfer, he will again lose his seniority as well as promotional avenues in his service career. The applicant alleged that in the garb of transfer, he actually has been given punishment.

4. Ld. Counsel for the Respondents categorically pleaded that by this transfer, the applicant shall neither lose seniority nor service benefits, which he could have availed at Bhubaneswar as he has been transferred with the post protecting his seniority.

5. The law on the question of judicial intervention in the case of transfer has been set at rest by catena of pronouncement of the Hon'ble Apex Court. Referring to the decisions of *Shilpi Bose Vs. State of Bihar reported in 1992 SCC (L&S) 127* and *State of U.P. Vs. Gobardhan Lal reported in 2005 SCC (L&S) 55*, Their Lordships of the

Hon'ble Supreme Court in the case of *Rajendra Singh & Ors. Vs. State of U.P. & Ors.* reported in (2010) 1 SCC (L&S) 503 have been pleased to observe that a Govt. servant has no vested right to remain posted at a place of his choice nor he can insist that he may be posted at one place or the other because no Government can function in such manner and the Courts should not interfere with the transfer order, which is made in public interest and for administrative reasons, unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of malafide.

6. Since, in the instant case, the transfer has been made in the public interest with administrative reasons and since there is no violation of any statutory rules and no case of malafide made out and also there is nothing wrong in the impugned order, no interference is called for. Hence ordered.

7. O.A. being devoid of merit is dismissed.

8. Interim order granted by the Tribunal stands vacated.

(M. SARANGI)
Member (Admn.)

(S.K.PATTNAIK)
Member (Judl.)