

An application under Section 19 of the Administration Tribunal's Act, 1985



BETWEEN

Balram Paswan, son of Hari Paswan,  
residing at Barharwa Kullipara, Post-  
Barharwa, District-Sahibganj,  
Jharkhand, Pin Code-816101.

.... Applicant.

AND

1. Union of India service through  
Union of the India through the General  
Manager, Eastern Railway, Fairlie  
Place, Kolkata-700001.
2. The Divisional Railway Manager,  
Eastern Railway, Howrah Division,  
Howrah, Pin Code-711101
3. The Sr. Divisional Personnel  
Officer, Eastern Railway, Howrah  
Division, Howrah, Pin Code-711101.
4. The Chief Medical Officer,  
Eastern Railway, Fairlie Place,  
Kolkata-700001.
5. The Additional Chief Medical  
Superintendent (IC), Eastern Railway,  
Rampurhat, Birbhum, Pin Code-  
731224.

----- Respondents  
Balram Paswan

**Coram : Hon'ble Mr. A.K. Patnaik, Judicial Member**

**Hon'ble Ms. Jaya Das Gupta, Administrative Member**

For the applicant : Mr. A. Chakraborty, counsel

For the respondents : Mr. A. K. Guha, counsel

**ORDER (ORAL)**

**Per A.K. Patnaik, J.M.**

This O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985 challenging the Office Order No.E/med/Transfer/HA/Ayah HWH dated 31<sup>st</sup> March, 2017(Annexure A/3 to the O.A.) issued by the Sr. Divisional Personnel Officer, Eastern Railway, Howrah Division, Howrah transferring him from Rampurhat to Orthopaedic Hospital at Howrah.

2. The applicant has prayed for the following reliefs:-

i) Office Order being No.E/med/Transfer/HA/Ayah HWH, dated 31<sup>st</sup> March 2017 issued by the Sr. Divisional Personnel Officer, Eastern Railway, Howrah Division, Howrah is not tenable in the eye of law and as such the same should be quashed;

ii) An order do issue directing the respondent authorities to consider the representation preferred by the applicant for his transfer from his present place of posting under Howrah Division to any post under Malda Division of Eastern Railway with immediate effect and to allow the applicant to discharge his service in his present place of posting at Rampurhat till such representation for inter-divisional transfer on own request is considered.

iii) Costs of and incidental to this application;

iv) Pass such further or other order or orders."

3. Heard Mr.A. Chakraborty, Id. counsel for the applicant and Mr. A.K. Guha, Id. counsel for the respondents.

4. Id. counsel Mr. A. Chakraborty appearing on behalf of the applicant submitted that the applicant had earlier prayed for his transfer from Howrah



Division to Malda Division on the ground of his personal difficulties vide representation dated 02.09.2016(Annexure A/2, page 13 of O.A.) to the General Manager, Eastern Railway, Kolkata i.e. the Respondent No.1, but no reply has been received by him till date. Mr. Chakraborty further submitted that the Sr. Divisional Personnel Officer, Eastern Railway, Howrah i.e. the Respondent No.3 of this O.A. suddenly issued another order on 31.03.2017 transferring the applicant from Rampurhat to Orthopaedic Hospital, Howrah. Mr. Chakraborty further submitted that a letter dated 07.04.2017 has also been issued by the Additional Chief Medical Superintendent(IC), Eastern Railway, Rampurhat (Respondent No.5) sparing the applicant from Rampurhat to join at Howrah. He, therefore, prays for quashing the said order of transfer.

5. We find that the applicant has not preferred any representation against the order of transfer dated 31.03.2017 which is under challenge. Therefore, we are of the considered view that this application is hit by Section 20 of Administrative Tribunals Act. On being questioned regarding the maintainability of the O.A., Mr. Chakraborty submitted that liberty may be granted to the applicant to file a representation to the respondent authorities ventilating his grievances therein.

7. Considering the aforesaid facts and circumstances, we do not think that it would be prejudicial to either of the sides if liberty is granted to the applicant to file a representation to the Respondent No.3 i.e. the Sr. Divisional Personnel Officer, Eastern Railway, Howrah ventilating his grievances and the Respondent No.3 is directed to consider and dispose of the same within a time frame. Accordingly, the applicant is given liberty to file a comprehensive representation to the Sr. Divisional Personnel Officer, Eastern Railway, Howrah i.e. the Respondent No.3 enclosing all the relevant documents and the respondent No.3



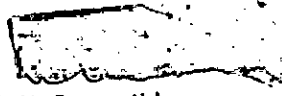
is directed to consider and dispose of the same as per the rules and regulations in force by passing a well reasoned order within a period of three months from the date of receipt of the representation from the applicant and communicate the decision to the applicant forthwith.

8. It is made clear that we have not gone into the merits of the case and all the points raised in the representation are kept open for consideration by the respondent authorities as per rules and guidelines governing the field.

9. Though we have not gone into the merits of the matter, we hope and trust that the respondents will consider the points raised by the applicant in his earlier representation dated 02.09.2016 along with the points taken in the representation to be preferred by him. Liberty is given to the applicant to annex a copy of this order along with the representation to be preferred him.

10. With the above observations the O.A. is disposed of. No order as to cost.

  
(Jaya Das Gupta)  
Administrative Member

  
( A.K. Patnaik)  
Judicial Member

sb

---