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CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No.O.A.350/00651/2016

Date of order : 11.07.2016

Present : Hon'ble Mrs. Bidisha Banerjee, Judicial Member

SMT. BHARATI MONDAL

VS.

UNION OF INDIA & OTHERS
(EASTERN RAILWAY)For the applicant : Mr. D. Dutta Banik, counsel
For the respondents : Mr. M.K.Bandyopadhyay, counselORDER

This application has been filed seeking an order upon the respondents to allow the prayer of the applicant for change of category from Helper-II of Mechanical (C&W) to PTR(Porter) under OPTG Department and for subsequent transfer from Helper-II of Mechanical (C&W) , Chitpur to PTR(Porter) of Operating Department of Sealdah Division with posting at Canning Railway station or in the vicinity thereof.

2. The case of the applicant in a nutshell is that she was engaged in Group 'D' category as a compassionate appointee following demise of her husband, Late Uttam Mondal who was a victim of rail accident (Ganneshwari Express) which occurred on 28.05.2010. She was recruited on 29.07.2011. During the period from 04.01.2014 to 05.07.2014 she was forced to endure gang rape at Chitpur Railway Yard by four railway employees who were posted at the said yard. Out of fear she could not file any complaint against such perpetrators of the heinous crime for a long period. Subsequently she mustered up enough courage to file a written complaint before Dum Dum Government Railway Police Station(GRPS) following which a GRPS

Case No.45 of 2014 dated 25.07.2014 under Section

372(2)(B)(m)/376(D)/506 of the Indian Penal Code, was lodged. The accused persons were arrested and subsequently enlarged on bail. They have joined their service. Since the incident caused a notable media stir, it initially thwarted the aggression of the accused persons. However, when the issue thawed with time, the accused persons started threatening the applicant and under such compulsive situation, the applicant made a prayer on 20.05.2015 to the Divisional Railway Manager, Eastern Railway, Sealdah, for change of category from Helper-II of Mech.(C&D) to OPTG Department (Annexure A-5 to the O.A) which was duly forwarded to the competent authority for disposal. It was informed that the matter had been put up before the competent authority who opined that the applicant might be advised to appeal through proper application which she preferred on 22.06.2015 to the Chief OS/E-8, Eastern Railway, Sealdah along with duly filled up application form of transfer in Proforma 'A', 'B' and 'C' with a declaration, but till date her prayer has neither been answered nor been acted upon by allowing her to change category of her service preventing any further harassment from the said perpetrators. Aggrieved whereby she has moved this application.

3. Ld. Counsel were heard and materials were perused.
4. During the course of hearing Ld. Counsel for the applicant submitted that the applicant is without any salary for about one year.
5. Ld. Counsel for the respondents fairly submitted that it was a very unfortunate case and since the prayer has already been preferred before the appropriate authority, the present O.A. can be disposed of with a direction upon the authorities to consider her prayer in a time bound manner.

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6. This bench has however got a shocking revelation that the accused/perpetrators of the heinous crime despite being put to custody were never suspended. On the contrary they were allowed to be retained at the same place where they had committed the crime. It is not known whether the matter was reported to any committee constituted in accordance with Sexual Harassment of Women at Workplace (Prevention , Prohibition and Redressal) Act, 2013 and whether such a committee at all exists in the office of the respondents and the action taken by such committee.

7. However, since the criminal proceedings are pending and the perpetrators are looming large at the site of the alleged occurrence, the prayer of the applicant should be decided by the respondent authorities at the earliest.

8. The competent authority to consider the change of category is the General Manager, Eastern Railway or his delegate, as submitted by the parties.

9. Accordingly, the O.A. is disposed of with a direction upon the Respondent No.2 or any other competent authority to consider the prayer of the applicant as contained in Annexure A-7 to the O.A. for change of her place of posting along with change of category if required, with due sympathy and keeping in mind the provisions of Sexual Harassment of Women at Workplace (Prevention , Prohibition and Redressal) Act, 2013. While making an honest endeavour to grant her such posting, appropriate orders should be issued within one month from the date of receipt of a copy of this order. The respondents are also directed to follow the provisions of the Act (supra) scrupulously and discharge their bounden duty.

10. There shall be no order as to cost..

B. Banerjee
(B. BANERJEE)
Judicial Member

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