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CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH



No.O.A.350/01035/2016

Date of order : 14.07.2016

Present : Hon'ble Mrs. Bidisha Banerjee, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

BIMAN CHANDRA ROY

VS.

UNION OF INDIA & ORS.

For the applicant : Mr. C. Sinha, counsel
For the respondents : Mr. B.L. Gangopadhyay, counsel

ORDER

Per Mrs. B. Banerjee, J.M.

In this O.A. a transfer order dated 28.04.2016 whereby the applicant, a JAG/RSME officer has been transferred from Metro Railway, Kolkata to C.L.W in the same capacity, has been assailed on the following grounds:-

- (i) The order is violative of the principles of natural justice and procedural justice;
- (ii) It is violative of Railway Board's letter dated 31.08.2015 which specifies a minimum tenure of two years at a place whereas the applicant has completed only six months as Deputy Chief Mechanical Engineer, Metro Railway;
- (iii) It has been issued in violation of the Board's letter dated 10.06.2014 circulated on 19.06.2014 whereby, in the wake of a decision of Hon'ble Apex Court dated 31.10.2013 the Board issued a circular mandating transfers to be made through

Placement Committee for "all" railway servants. As per para 2(i) of the order following shall be the Placement Committee:-

"For officers of the level of Group 'B' to Selection Grade in the Zonal Railways and Production Units/Construction Organisations/RDSO etc. and Workshops.

(a) PHOD/CHOD/Cadre Controlling Officer of the concerned department;

(b) Chief Personnel Officer/HOD of Personnel Department and standby officer would be another SAG, IRPS officer;

(c) One PHOD/CHOD of a Department outside the concerned department."

Therefore, the transfer order being not routed through Placement Committee is illegal and bad in law;

(iv) The Transfer order being issued in mid academic session of the applicant's daughter is illegal.

2. During the course of argument, Id. Counsel for the applicant vociferously submitted that the transfer order needs to be quashed in view of the fact that it was issued by Director, Railway Board whereas mandatorily it had to be routed through a Placement Committee.

3. Dispelling the claim Id. Counsel for the respondents would argue that the applicant being a Group 'A' officer, was not governed by para 2(i) of Board's letter dated 10.06.2014 which the applicant placed at Annexure A-5 to the O.A. (extracted supra).

4. Id. Counsels were heard and materials on record perused.

5. Since a representation dated 02.07.2016 has already been preferred to Member Mechanical, Railway Board, New Delhi and the transfer order seems to be issued at the behest of the Ministry of Railways with the approval of the President, the O.A. is disposed of with a direction upon the Railway Board to consider the representation dated 02.07.2016 in terms of

the Board's letter dated 10.06.2014 and 31.08.2015 as cited by the applicant and his prayer for retention of one more year only, as made in the representation and dispose it of with a reasoned and speaking order within one month or forward it to the appropriate authority for disposal of the same in the light of the aforesaid circulars. Till such time, the applicant may join the transferred post or be on leave.

6. The O.A. is accordingly disposed of. No costs.

(JAYA DAS GUPTA)
Administrative Member

(BIDISHA BANERJEE)
Judicial Member

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