

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
KOLKATA



OA. 350/01545/2016

Date of Order: 15.11.2016

Present : Hon'ble Justice Shri Vishnu Chandra Gupta, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

Partha Sarathi Bhar, Senior Section
Engineer, Garden Reach, South Eastern
Railway, Kolkata, residing at S. C. Mukherjee
Road, Halderpara, Post Office- Chandan
Nagar, District- Hoogly, Pin- 712136.

.....Applicant.

-versus-

1. The Union of India, service through the
General
Manager, South Eastern Railway, Garden
Reach
Kolkata- 700043.
2. The Chief Communication Engineer, South
Eastern
Railway, Garden Reach, Kolkata- 700 043.
3. The Chief Personnel Officer, South Eastern
Railway, Garden Reach, Kolkata- 700 043.
4. The Senior Personnel Officer, South Eastern
Railway, Garden Reach, Kolkata- 700 043.

.....Respondents.

5. B. Bag, Junior Engineer, Telecom, S.E. Rly.
Telephone Exchange, Kharagpur.

.....Private Respondents.

For the Applicant

:Mr. C. Sinha, Counsel
Mr. S. Chakraborty, Counsel

For the Respondents

Mr. AK Dutta, Counsel

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ORDER

Per Ms. Jaya Das Gupta, AM:

The applicant Shri Partha Sarathi Bhar had approached before C.A.T. under Section 19 of AT Act, 1985 seeking the following relief:

8.1 To consider the representation dated 21.09.2016 made by the applicant to the Respondent No. 2;

8.2 To quash and set aside the impugned office order being no. SER/P-HQ/CADRE/EN/51/2016 dated 15.09.2016 issued by the Respondent Railway authority;

8.3 To quash and set aside the impugned letter being no. S&T/TM/GRC/PSB/2016 dated 20.09.2016 issued by the Respondent Railway authority;

8.4 To pass a direction or directions upon the Respondent authorities to allow the prayer of the Applicant for retention at the Garden Reach Office in the same unit;

8.5 To cancel and set aside the order of transfer of the applicant from Garden Reach to Kharagpur;

8.6 Show cause in terms of prayer 8.1, 8.2, 8.3 and 8.4 above after hearing the cause make the rules absolute;

8.7 A direction as to costs of the proceedings to the applicant;

8.8 Any further order or orders, direction or directions as the Hon'ble Tribunal may deem fit and proper for the ends of justice."

2. Heard both. Consulted the records.

3. The applicant is a Senior Section Engineer, Telecom Exchange, Garden Reach, S. E. Railway residing at Chandan Nagar. He was appointed with the office of South Eastern Railway on 01.11.1988 and after his appointment he had further served at various posts. Since the month of December, 2001 he was posted at Garden Reach, S.E. Railway. This fact shows that he has been posted in the Garden Reach for a long period of nearly 15 years.

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Vide transfer order dated 15.09.2016, the applicant was transferred in his existing Pay Band/Grade Pay from Garden Reach and posted at Kharagpur under Senior Deputy Superintendent of Telecom Engineering/Kharagpur against existing vacancy. Such transfer order is extracted below:

"Office Order No. SER/P-HQ/CADRE/EN/51/2016 Dated: 15.9.2016

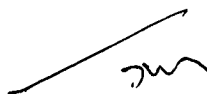
The following transfer/posting orders are issued with the approval of the Competent Authority.

1. Shri P.S. Bhar, SSE/T/GRC is hereby transferred in his existing Pay Band/Grade Pay and posted at KGP under Sr. DSTE/KGP against an existing vacancy.
2. Shri B. Bag, JE/T/KGP is hereby transferred in his existing Pay Band/Grade Pay and posted at GRC against the post of SSE(Tele) vacated by Sri P.S. Bhar, item 1 above."

4. He has approached before CAT against the impugned transfer order dated 15.09.2016. The main grievances being as follows:

- (i) No reason for transfer has been given in the transfer order and allegedly such decision of transfer is whimsical and arbitrary.
- (ii) The wife of the applicant who is posted at Chandan Nagar is a Central Government employee working in the Indian Postal Department.

As per the clause 3(c) the Railway Board Circular dated 02.02.2010 there is a stipulation that where one of the spouses is a Railway servant and the other belongs to All India Service or another Central Service, the Railway servant should be posted at station/place in the Railway/Division/PU in whose territorial jurisdiction the place/state of posting of his/her



spouse falls or as close to it as possible if there is no Railway Organization/post at the place/state of posting of the spouse.

(iii) That the journey from his residence at Chandan Nagar which is in Hoogly District to place of posting at Kharagpur in Paschim Medinipur District will take about 8 hours daily.

(v) That the applicant is on the verge of retirement and is ailing seriously.

5. It is the noteworthy to mention here that just after the transfer order dated 15.09.2016 was issued the applicant immediately took sick leave from 17.09.2016 and have submitted medical certificates which are not from Railway Doctors.

He is also posted at Garden Reach for the last 15 years. We note from record that he still has about 4 years and 10 ^{months} to retire.


We are well aware that transfer guidelines are not mandatory in nature and it stipulates that as far as practicable the authorities may ensure that husband and wife are posted close to each other. The applicant can very well arrange for stay at the place of transfer i.e. Kharagpur itself instead of spending about 8 hours daily as has been alleged by him. Incidentally the applicant has not alleged malice on the part of respondent authorities.

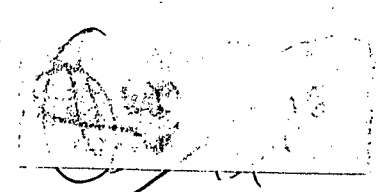
6. Transfer is regular incidence of service. The Hon'ble Apex Court in the case of **Rajendra Roy vs. Union of India and Another**, reported in 1993(1) SCC 148, has directed that "the order of transfer often causes a lot of difficulties and dislocation in the family set-up of the concerned employees but on that score the order of transfer is not liable to be struck down. In a transferable post an order of

Transfer is a normal consequence and personal difficulties are matters for consideration of the department. Unless such order is passed mala fide or in violation of the Rules of service and guidelines for transfer without any proper justification, the Court and the Tribunal should not interfere with the order of transfer"(para-7).

7. The Learned Counsel for the Applicant also alleged that such transfer from Garden Reach to Kharagpur has not been recommended by the appropriate Placement Committee. In this regard, the learned Counsel appearing for the Respondents submitted documents in court ON 10.11.2016 which confirms that such transfer of the applicant from Garden Reach to Kharagpur was recommended by the Placement Committee and final order of transfer was issued after receiving such recommendation.

8. Therefore, based on the above facts, we do not find any reason to interfere with the order of transfer issued by the Respondents. Accordingly, this case is held to be without any merit and the same is dismissed by leaving the parties to bear their own costs.


(Jaya Das Gupta)
Admn. Member


(Justice V.C. Gupta)
Judicial Member