

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
KOLKATA

LIBRARY

Date of Order: 1.6.11.

OA. 350/01582/2014

Present

:Hon'ble Ms. Bidisha Banerjee, Judicial Member

1. Gautam Sardar, son of Sri Niranjan Kumar Sardar, aged about 48 years, residing at Qtr. No. 443/A, Barrack Colony (Near Railway Stadium), Jhaljhalia, Malda-732102, working as SSE/Sig./Drg under Sr. DSTE/E. Rly (MLDT, at Malda under Eastern Railway.
2. Purnima Sardar, wife of Gautam Sardar, aged about 46 years, residing at Qtr. No. 1/B, Street No. 20 Chittaranjan Locomotives Works, Chittaranjan, Burdwan, Pin-713331.

.....Applicants.

-versus-

1. Union of India represented by the General Manager, Eastern Railway, Fairly Place, Kolkata - 700001.
2. The Chief Personnel Officer, Eastern Railway Fairly Place, Kolkata- 700001.
3. The Divisional Railway Manager, Eastern Railway, Malda, Malda- 732102, West Bengal.
4. Chief Personnel Officer, Chittaranjan Locomotives Works, Chittaranjan 713331, West Bengal.

.....Respondents.

For the Applicant

: Mr. AK Banerjee, Counsel

For the Respondents

: Mr. BL Gangopadhyay, Counsel
Ms. C. Mukherjee, Counsel

ORDER

Per Ms. Bidisha Banerjee, JM:-

This matter is taken up in Single Bench in terms of Appendix VIII of Rule 154 of CAT Rules of Practice, as no complicated question of law is involved, and with the consent of both sides.

2. Heard both.

3. The applicant has prayed for a direction upon the respondents to consider his transfer from Malda, Eastern Railway to CLW, Chittranjan on spouse ground in terms of Railway Board Circular dated 10.05.2005 and quashing of the impugned order dated 16.05.2012 and 10.04.2014 whereby and whereunder on behalf of CPO, CLW Chittranjan wife of the applicant has been informed that her prayer for transfer of her husband to CLW could not be acceded due to "non-eligibility of requisite qualification" for the post of JE-II.

4. It would be noted that the applicant Goutam Sardar is a JE-I/Drg/Malda/Eastern Railway. By the impugned order his prayer for transfer to CLW against the post of JE-II was not acceded to on the ground that he did not have requisite qualification for the post of JE-II. The logic behind such rejection could not be comprehended or countenanced in as much as Railway being one, when the applicant could function as JE-I in Malda, Eastern Railway how could have he be considered as ineligible for posting as JE-II at CLW.

5. Learned counsel for respondents would clarify that the applicant was appointed as Assistant Draftsman in the scale of Rs. 1200-2040/- (RP) at Malda under Eastern Railway, Kolkata on 20.05.1993 having his educational qualification as H.S. and I.T.I. (Draughtsman/Mechanical). He was serving as SSE/Sig/Drg under Sr. DSTE/E.Rly, Malda. He married to Purnima Sardar, a School Teacher (TGT) in 1997 with full knowledge that she was an employee of CLW/Chittranjan and would have to reside at Chittranjan far away from the working place of the applicant. In terms of Railway Board letter dated 08.02.2000 read with Railway Board's letter dated 02.02.2010 Inter Railway Transfer in the Recruitment Grade of JE-II is permissible provided the applicant possesses requisite educational qualification required for direct recruitment as the educational qualification of the applicant was H.S with I.T.I, which is not a requisite qualification for direct recruitment for JE-II. As such the prayer could not be acceded to.

6. To dispel the argument, the learned counsel for applicant would submit that the applicant was promoted to JE/Drg in the scale of Rs. 5000-8000/- (5th CPC) with effect from 02.06.2003 and further promoted to SSE/Drg in PB-2 in the scale of Rs.9300-34800/- with Grade Pay of Rs. 4600/- with effect from 28.03.2013. The said pay scale and grade pay was equivalent to the post he was seeking on his transfer to CLW.

7. Per contra, the learned counsel for respondents submitted that in SSE cadre the educational qualification should be degree in relevant trade which the applicant did not process.

8. Learned counsel for applicant referred to the circular dated 22.02.2010 issued by the Railways in regard to posting of husband and wife at the same station. The relevant excerpts of said circular would be as under:

"2. In the context of the need to make concerted efforts to increase representation of women in Central Government jobs, these guidelines have been reviewed to see whether the instructions could be made mandatory. It has been decided vide Deptt. Of Personnel & Training's O.M. No. 28034/9/2009-Estt (A) dated 30.09.2009 that when both spouses are in the same Central Service or working in same Deptt. and if posts are available, they may mandatory be posted at the same station.

3.b. Where both the spouses are railway servants but belong to different seniority units.

Efforts may be made to post both the railway servants at the station where posts at appropriate level exist in the respective seniority units falling which requests for change of the category may be considered sympathetically keeping in view all other relevant rules in the matter."

In view of the specific provision of Railways to post the spouses at the same station where posts at appropriate level exist in the respective seniority units or for changing of category to be considered sympathetically, the rejection of the applicant's prayer outright on the ground that he did not process requisite qualification when he held identical post in another Railway, did not appear to be taken in accordance with policy of the Railways. Respondents ought to have considered his posting by change of category if required.

9. It would also be noted that on 17.08.2007, Eastern Railway authorities had already agreed to the prayer of the applicant for inter railway transfer on own request and on spouse ground in favour of the applicant from his transfer from Malda Division to CLW/CRJ and intimated on 17.08.2007 on behalf of Divisional Railway Manager, Eastern Railway, Malda. If rules did not permit them how could they recommend.

10. In view of above, when it is noticed that the applicant inarguably and indubitably has a right to seek transfer on spouse ground, to a place where his spouse is posted, the OA is disposed of with a direction upon the CLW authorities to consider the case of inter railway transfer of the applicant from Malda Division, Eastern Railway to CLW/CRJ in terms of the policy enumerated supra and pass an appropriate order within a period of 2 months from the date of receipt of copy of this order. While considering the case an honest endeavor should be made by the Officers of CLW to transfer the applicant and post him to a suitable post in CLW where his qualification and experience as SSE would allow him to serve the organization effectively and fruitfully. No costs.

(Bidisha Banerjee)
Member (J)

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