

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH  
KOLKATA**

OA No.350/00260/2016

Order dated : 17.11.2016

Present:

The Hon'ble Mr. Justice V.C.Gupta, Judicial Member  
The Hon'ble Ms. Jaya Das Gupta, Administrative Member

.....  
Tapan Kumar Majumdar, S/o. Late Jogesh Chandra Majumder, aged about 58 years, working as ECRC/NKG under Chief Commercial Manager (PM), Eastern Railway, Kolkata-700 001 at present residing at 150, G.B.Road, Kolkata.

.....Applicant

**-VERSUS-**

1. UNION OF INDIA, through General Manager, Eastern Railway, 17, N.S.Road, Kolkata-700 001.
2. Chief Personnel Officer, Eastern Railway, 17, N.S.Road, Kolkata-700 001.
3. Chief Commercial Manager (PM), 2, Koilaghat Building, N.S.Road, Kolkata-700 001.
4. Deputy Chief Commercial Manager (DB), 2, Koilaghat Building, N.S.Road, Kolkata-1.
5. Somen Halder, ECRC, BHP Office of Station Manager, PO & PS. Bolpur, Dist. Birbhum.

.....Respondents

Counsel for the Applicant :Mr.C.Sinha, Advocate  
Counsel for the Respondents :Mr.A.K.Guha, Counsel

**ORDER**

**MS.JAYA DAS GUPTA, AM:**

The Applicant, Tapan Kumar Majumdar, has filed this Original Application under section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

"(a) To set aside and quash impugned office order No. 48 (Resv)/2014 dated 19.05.2014 issued by Senior Personnel Officer (t) FOR Chief Personnel Officer transferring applicant from New Koilaghat (NKG) to Bolpur (BHP);

(b) To set aside and quash the impugned speaking order dated 28.04.2015 issued by Dy. Chief Commercial Manager/DB communicated via letter dated 28.04.2015;

(c) To set aside and quash the impugned office order N. 32 (Resv)/2014 dated 19.8.2015 issued by Sr. Personnel Officer (T) for Chief Personnel Officer;

(d) To set aside and quash impugned letter No. SCM/Resv/NKG/Staff/Estt/Pt-II/15 dated 28.12.2015 issued by CCM (PM); ;

(e) To direct the respondents as an alternative measure to post the applicant as Reservation Supervisor-II in GP of Rs. 4200 t NKG/Headquarter in terms of office order dated 01.01.2016;

(f) Any other order or order(s) as the Hon'ble Tribunal deems fit and proper."

2. Respondents have filed their reply.
3. Heard both. Consulted the records.
4. Before proceeding further in the matter, it is worthwhile

to extract the relevant portion of the impugned orders which are as under:

(i) "OFFICE ORDER NO.48 (Resv)/2014.

The following transfer orders are issued as per details shown below with immediate effect:

Sl.No.	Name & Designation	Present place of posting	Transferred to	Remarks
Xx	Xx	Xx	Xx	Xx
3	Tapan Kumar Majumdar, ECRC	NKG	BHP	Administrative ground

Xx XX

Since the above transfer orders are made at their own request, they are (Sl.No. 1,4 5) not

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eligible to get any transfer allowance, transfer pass, joining time etc as per extant rules. Remaining cases (Sl.No.2 & 3) may please be dealt with as per normal rules involving administrative transfer issues.

19.5.2015

Sd/- (P.Dutta)

Sr. Personnel Officer (T)

For Chief Personnel Officer."

(ii) **Letter dated 28.04.2015**

"Office of the Chief Commercial Manager (Passenger Marketing) Eastern Railway.  
Shri Tapan Kumar Majumder, ECRC/NKG, Eastern Railway, Kolkata

Ref: OA No. 3500/1347 of 2014 before Hon'ble Central Administrative Tribunal at Calcutta - Tapan Kr. Majumder vs UOI & Others.

In pursuance of order dated 12/3/2015 passed by Hon'ble Central Administrative Tribunal, Calcutta Bench in OA No. 3500/1347 of 2014 (Tapan Kr Majumder Vs UOI & Others) the undersigned and the Respondent No.3 in the above OA has passed a speaking order on 28.04.2015.

A copy of the same order is enclosed.

Sd/- (S.B.Baskey)

Dy. Chief Commercial Manager/DB.

**SPEAKING ORDER**

In pursuance of order dated 12/03/2015 passed by the Hon'ble Central Administrative Tribunal, Kolkata Bench in OA No. 350/1347/2014 (Shri Tapan Kumar Majumder Vs Union of India and Others) the undersigned being the Dy. Chief Commercial Manager/DB and Staff Officer, Eastern Railway and Respondent No.3 in the above OA has carefully gone through the said OA and its annexure.

The transfer of Shri T.K.Majumder has been based on recommendation of Eastern Railway Vigilance department. During a preventive check conducted by Vigilance Department at New KG Booking office on 11/04/2014 at about 10:32 hrs, the following irregularities were found on the part of Shri Majumeder ECRC/New KG.

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1. That Shri Majumder was found with short Government cash to the tune of Rs. 1, 410/- . He had produced Rs. 23, 395/- as his total Government cash against his DTC cash of Rs. 24, 805/- . He failed to maintain absolute integrity and devotion to his duty under section 3 (1) (i) of Service Conduct Rules, 1966.
2. That Shri Majumder was found with short of personal cash to the tune of Rs. 56/- for which he had not recorded expenditure. He had produced Rs. 580/- as his personal cash against declared personal cash of Rs. 636/- . Which is unbecoming of a railway servant under section 3(1)(iii) of Service Conduct Rules, 1966;
3. That Shri Majumder had been generated the first three tatkal JCRTs by accepting three requisition slips from one person which is not permissible. By these activities he failed to maintained devotion to his duty under section 3 (1)(ii) of Service Conduct Rules, 1966;
4. That Sri Majumder failed to record mandatory particular like PNE no. of JCRTs and operator signature on first three tatkal requisition slips which is also highly irregular and failed to mintained devotion to his duty vide section 3(1)(ii) of Service Conduct Rules, 1966;

From the aforesaid facts it has been observed that Shri Tapan Majumder has acted in way which amounts of Disciplinary Appeal Rules of 1966 of 3 (1) (i)(ii) and (iii);

In this context, Shri T.K.Majumeder in his appal has expressed his financial loss and hampering the duty to his family if he is transferred from the present working place to New Koilaghat. The present transfer of

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Shri Majumder was inevitable due to his own misconduct. He should blame himself only for any financial loss and suffering to his family. As a Government servant he should look after his organization before everything else as his organisation is looking after him and his family by providing his livelihood. But Shri Majumder by adopting corrupt practices has inflicted injury and loss to his organisation which is lacking care of him and his family. This is not acceptable.

Keeping in view the facts enumerated above, I find the transfer order of the applicant issued under letter no. 48 (Resv)/2014 dated 19/05/2014 by the Chief Personnel Officer, Eastern Railway is in order and in pursuance of the existing instructions procedures of the Railway Service Conduct rule, 1966 by coming misconduct including in corruption during the New KG reservation unit. Moreover, Indian Railway Establishment Code Vol I 1985 Rule 103 (51) it is stated that "**Transfers otherwise than on temporary basis are necessitated by administrative requirements or occasioned by consideration of requests received from the Railway servants. Transfer is not a punishment.**"

I, therefore, order that the applicant should carry out the transfer Office Order No. 48 (Resv)/2014 dated 19/5/2014 and join his duty at Bolpur Reservation unit under Howrah division immediately.

This is strictly without prejudice.

Dated the April 28, 2015

Sd/- (S.B.Baskey)  
Dy. Chief Commercial Manager/DB"

(iii) Office Order No. 32 (Resv)/2014.

In view of the Speaking order issued in compliance of CAT/Kolkata's judgment in OA No. 350/1347 of 2014 dated 12.03.2015 the following transfers orders are issued with recommendation

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of Placement Committee and approval of CCM as detailed below with immediate effect:

Sl.No.	Name & Designation	Present place of posting	Transferred to	Remarks
1	Tapan Kumar Majumdar, ECRC	NKG	BHP	Administrative ground
2	Sri Somen Halder, ECRC/BHP	BHP	NKG	Own request

Since Serial No. (2) of the above transfer order is on own request he is not eligible to get any transfer allowance, transfer pass joining time etc as per extant rule.

[Authority - Dy. CCM (DB)'s letter No. Resv (Staff)Policy/Pt VII dated 10.8.2015.

19.8.2015

Sd/- (P.Dutta)

Sr. Personnel Officer (T)  
For Chief Personnel Officer"

(iv) Letter dated 28.12.2015.

"Eastern Railway

No. SCM/Resv/NKG/Staff/Estt./Pt-II/15 dated Kol, 28<sup>th</sup> December, 2015.

To

Sr. Divisional Commercial Manager/Howrah, Eastern Railway.

Sub: Sparing of staff, Sri Tapan Kumar Mazumder, ECRC/NKG.

Ref: CPO's O.O. No. 32 (Resv)/2014 dtd.19.8.15;, Dkt No. E. 2240/2/ Resv/ COM/Line/ Pt.VI/ORT dtd. 19.8.2015 & E.1140/2/ RESV/COM/ Line/Pt.VI/ ORT td.20/11/15.

In reference to aforesaid Office order Shri Tapan Kumar Mazumdar, ECRC/NKG is hereby spared on 28/12/15 and directed to report to you for further course of action at your end as and when fit to resume his duty. Sri Mazumdar is sick under PMG on and from 01.09.15.

He has taken 4 (four) days sanctioned C.L. during the year 2015 till date.

Sd/- (M.S.Mukhopadhyay)

ACM(Resv)/NKG/E.Rly

For Chief Commercial Manager (PM)"

26/11/2015

5. In course of hearing, the learned counsel for the Respondents has submitted that the applicant **has already joined at his transfer place of posting on transfer** on 23.4.2016 (FN) and produced a copy of the joining report of the applicant which is extracted herein below:

"The Station Manager, Bolpur.  
 Sub: Joining as ECRC/Bolpur;  
 Ref: Order No. EAC (i)/Resv)/ID-IR transfer/2013 dated 22.4.2016.

Respected Sir,

As per office order mentioned above, I am joining as ECRC/Bolpur on date i.e. 23.4.2016 (FN).

This is for your kind information and further action please.

Dated: 23.4.2016

Yours faithfully,

Sd/-

(Tapan Kumar Majumder)  
 ECRC/BHP"

6. The applicant has alleged that his transfer to Bolpur is made as a penal measure. But from the pleadings it appears that a minor penalty has been imposed on the applicant and as per Indian Railway Establishment Code Vol. I 1985 Rule 103 (51) it is stated that "Transfers otherwise than on temporary basis are necessitated by administrative requirements or occasioned by consideration of requests received from the Railway servants. Transfer is not a punishment.

Hence, it is clear that transfer of the applicant is not by way of penal measure. In the case of the **Railway Board and Others v P.R.Subramniyam and others, (1978) 1 SCC 158**, the

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Hon'ble Apex Court have held that orders issued by the Railway Board for general application to non gazetted railway servants are to be treated as rules having statutory force. Hence, the present the transfer of the applicant having been made as per Indian Railway Establishment Code Vol. I.1985 Rule 103 (51) needs no interference.

7. Once a transfer takes place one is replaced by other. There is nothing on record to substantiate that the impugned transfer order was to accommodate Shri Somen Halder. Only pleadings are there but no substantial material has been placed on record which could prove as fact that transfer was made to accommodate Shri Halder. Hence on this ground we do not find any reason to interfere with the order of transfer of the applicant.

8. Last but not the least, we may observe as held by the Hon'ble Apex Court in the case of **Union of India v Janardhan Debnath**, AIR 2004 SC 1632 that an employee has no right to claim to remain in a particular post or place. Who should be transferred where and at what point of time, in administrative exigencies, is a matter falls within the exclusive domain of the employer to decide and the court and Tribunal cannot intervene and interdict on the said order of transfer which has been made in public interest or administrative exigency.

J.M

9. As discussed above; especially in view of the fact that the applicant has already joined at Bolpur, this OA is dismissed as infrucuous. No costs.

(Jaya Das Gupta)  
Member (Admn.)

(Justice V.C.Gupta)  
Member (Judl.)

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