

CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO.331 OF 2018

DATE OF DECISION : MAY 03rd, 2018

CORAM : HON'BLE SHRI ARVIND J. ROHEE, MEMBER (JUDICIAL)

Vijay Bapurao Gawade, Son of Bapurao Sankar Gawade
 (Date of Birth : 04.01.1980), age : 38 years, 04 months,
 working as : Senior Goods Guard (Group "C")
 under Chief Yard Master, Daund,
 Solapur Division of Central Railway,
 And residing at : Suryanagari, Baramati,
 Taluka – Baramati, District – Pune,
 State of Maharashtra, Pune Code 413 133.... **Applicant**
(By Advocate Shri R.G.Walia)

VERSUS

1. The Union of India, Through General Manager,
 Central Railway, Headquarters' Office,
 Chhatrapati Shivaji Maharaj Terminus (CSMT),
 Mumbai 400 001.
2. Divisional Railway Manager (DRM),
 DRM's Office, Central Railway,
 Solapur Division, Solapur 413 001.
3. Sr. Divisional Personnel Officer (Sr. DPO),
 DRM's Office, Central Railway,
 Solapur Division, Solapur 413 001... **Respondents**
(By Advocate Shri R.R.Shetty)

ORDER (ORAL)

Today, Division Bench is not available. Hence,
 taken up before Single Bench on urgent circulation.

2. When the matter is called out for Admission,
 heard Shri R.G.Walia, learned Advocate for the applicant. I
 have carefully perused the case record.
2. The applicant is presently working as Senior
 Goods Guard under the respondent No.3 at Daund. He has
 grievance regarding the impugned order dated 26.04.2018

(Annexure A-1) issued by the respondents by which he has been transferred on promotion to the post of Passenger Guards at Kurduwadi in vacant post there. The impugned order has been challenged on the ground that it is punitive and secondly the same has not been issued by duly Constituted Placement Committee and thirdly there are vacant posts in the promotion post also at Daund. Interim relief to stay the effect, operation and implementation of impugned order is also sought.

3. At this stage, Shri R.R.Shetty, learned Standing counsel *suo moto* appeared on behalf of the respondents and accepts notice. Heard him also on admission of OA and he is permitted to collect the copy of the OA from the Court Officer. Heard him on prayer for interim relief also.

4. The record shows that the applicant has filed the Contempt Petition in previous OA No.578/2015 against the respondents in which notices were issued calling upon them to explain the situation vide order dated 27.04.2018 with personal attendance of the respondent No.3. It is pointed out that the impugned order of transfer has been issued on the previous day i.e. on 26.04.2018 and hence, according to the applicant, the same is nothing but by way of punishment and since he is litigating in the previous OA against the respondents in contempt proceedings.

5. It is obvious from perusal of record that the

applicant desires to continue in the promotion post at Daund itself since there are vacant posts. However, it is for the respondents to consider his request. The record further shows that after issuance of the impugned order, the applicant has not submitted any representation for cancellation / modification of impugned order by raising the grounds stated in the OA. It is also submitted by the learned Advocate for the applicant on instruction received from the applicant, who is present in Court that so far, he is not relieved, in pursuance of the impugned order dated 26.04.2018.

6. In view of above, this Tribunal feels it appropriate to dispose of the OA granting liberty to the applicant to make a detailed representation to the respondent No.2 for consideration raising all the grounds stated in the OA as well as additional grounds, if any. The representation be submitted to the respondent No.2 within a period of seven days from today. On such representation being made, the respondent No.2 is directed to consider it in accordance with law and pass a reasoned and speaking order thereon, within a period of three weeks from the submission thereof.

7. The order so passed shall then be communicated to the applicant at the earliest, who will be at liberty to approach the appropriate forum in case his grievance still persists.

8. It is further directed that till a decision is taken on the representation within the time prescribed as above, the applicant shall not be relieved from the present post, if he is not relieved so far, and else this order will be *non est*.

9. The OA stands disposed of with the aforesaid directions at the admission stage after hearing both the learned Advocates for the parties quite at length and without making any comment on the merits of the claim.

10. Registry is directed to forward certified copy of this order to both the parties at the earliest for taking necessary steps in the matter.

11. *Dasti.*

Place : Mumbai
Date : 03rd May, 2018

(Arvind J. Rohee)
Member (Judicial)

*kmg**