

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION No.407/2018

Date of Decision: 8th June, 2018

CORAM: HON'BLE SHRI ARVIND J. ROHEE, MEMBER (J)
HON'BLE SHRI R. VIJAYKUMAR, MEMBER (A)

Vijay s/o Janraoji Badse
 working as Junior Engineer
 (Electrical) in the office of
 Senior Divisional Mechanical
 Engineer (D), Diesel Loco
 Shed, Motibagh, Nagpur and
 R/o Flat No.7/C/7, Jaika Aptt.,
 Near Hotal Heritage,
 Civil Lines,
 Nagpur - 440 001. **... Applicant.**
(By Advocate Ms. Rashi Deshpande)

VERSUS

1. The Union of India,
 Through General Manager,
 South East Central Railway,
 Bilaspur - 495 004.
2. The Divisional Railway Manager,
 South East Central Railway,
 Nagpur - 440 001.
3. The Sr. Divisional Mechanical
 Engineer, (DLS), South East
 Central Railway, Motibagh,
 Nagpur - 440 014. **... Respondents**

ORDER (ORAL)

PER: SHRI ARVIND J. ROHEE, MEMBER (J)

Today when the matter is called out for
 Admission by urgent circulation at the end of

Board, Heard Ms. Rashi Deshpande, learned Advocate from Nagpur for the applicant. We have carefully perused the case record.

2. The applicant who is presently working as Junior Engineer (Electrical) in the office of respondent No.3 at Nagpur, has grievance regarding communication dated 27.03.2018 by which he was called upon to get the relieving order within three days, since by order dated 26.06.2015, he is already transferred on promotion to Gondia on the post of Senior Sectional Engineer, however, he did not join there.

3. The record shows that the transfer order has been modified vide order dated 11.09.2015, by which the applicant was allowed to continue at Nagpur for six months from the date of issuance of the transfer order dated 26.06.2015. Thus time till 26.12.2015 was granted to the applicant to join at the transferred place of posting at Gondia on promotion post. However, he did not join and instead again submitted a representation dated 27.07.2015 raising some personal grounds and for cancellation of the transfer order and to

continue him at Nagpur on promotion post. He was, however, continued to work at Nagpur in the feeder cadre post of junior engineer till impugned communication is issued.

4. It is revealed from the impugned communication dated 27.03.2018 (Annexure A-13) followed by a Warning Memo dated 03.04.2018 (Annexure A-2) regarding disciplinary action to be taken against him, if he fails to comply with the order dated 27.03.2018, it is obvious that representation for retention was not considered by the respondents, although separate reply in this behalf is not issued.

5. In the OA, the following reliefs are sought:-

"(a) Call for the records and perused the same;

(b) Quash and set aside the impugned communication letter dated 27.03.2018 as well as warning letter dated 03.04.2018 being arbitrary, illegal and unsustainable in the eyes of law;

(c) direct the respondents to consider the case of the applicant and retain him at Nagpur on the post of SSE (E) and extend the benefits of restructuring w.e.f. 1.11.2013 along with arrears and proper fixation of pay with interest @12% per annum.

(d) grant any other relief which this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case, may also be granted."

6. Interim relief is also sought against respondents not to relive the applicant from Nagpur till pendency of the OA.

7. After hearing learned Advocate for the applicant quite at length and on careful perusal of the case record, we are of the considered view that no case has been made out for interference by this Tribunal at this stage. The applicant is still at liberty to proceed to join at Gondia on promotion post, if he so desires and then may make representation for cancellation / modification of initial transfer order dated 26.06.2015 raising administrative and personal grounds, in view of decision rendered by the Hon'ble Supreme Court in S.C.Saxena Vs. Union of India and others.

8. In view of above, the OA stands dismissed in *limine* without issuing notice to the respondents.

9. Registry is directed to forward certified copy of this order to both the parties.

10. The same be uploaded on net so that the applicant will have immediate access to it for taking appropriate steps in the matter.

(R. Vijaykumar)
Member (A)

(A.J. Rohee)
Member (J)

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