

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PATNA BENCH  
CIRCUIT BENCH, RANCHI  
OA/051/01052/18**

Date of order: 20.12.2018

**C O R A M**

**HON'BLE MR. JAYESH V. BHAIKAVIA, JUDICIAL MEMBER  
HON'BLE MR. PRADEEP KUMAR, ADMINISTRATIVE MEMBER**

Satish Kumar,.....

Applicants.

- By Advocate: - Mr. M. A. Khan

-Versus-

Union of India &Ors. ....

Respondents.

- By Advocate: - Mr. Prabhat Kumar

**O R D E R  
[ORAL]**

**Per Mr. J. V. Bhairavia, J.M.:-**In the instant OA, the applicant has prayed for cancelling/quashing the transfer order dated 20.07.2018 (Annexure-3) issued by respondent no. 3 by which the applicant has been transferred from Hatia to Muri without any element of administrative exigencies.

2. The applicant has mainly challenged the transfer order on the following grounds:-

(i) It is issued in violation of general transfer guidelines of the Railway Board .

(ii)It is issued ignoring the mid-session of applicant's children and sickness of his wife.

(iii) It is issued in absence of any element of administrative exigencies.

(iv) The respondents have erred by picking senior persons for transfer without assigning any reasons.

3. The learned counsel for the applicant submits that the applicant's transfer has been made without giving any reason and the same is passed in violation of Master Circular 24 which clearly indicates that there should be elements of administrative exigencies for transferring an employee. It is also submitted that the applicant's wife is a serious patient of "Asthma " and the dust particulates will be dangerous for her due to HINDALCO factory nearby the transferred Railway Station at Muri. It is further submitted that the applicant has submitted representations dated 05.08.2018 and 06.08.2018 for cancellation of his transfer and since no relieving order has been served on the applicant till date, the order of transfer dated 20.07.2018 has lost its force as he was allowed to work with payment upto 19.11.2018 and presently he is on sick leave. The learned counsel for the applicant further submitted that there are still six vacancies available at Hatia for Chief Loco Inspector.

4. Shri Prabhat Kumar, Id. counsel on receipt of advance copy appeared on behalf of the respondents and sought time to file written statement. He further submitted that the applicant is working at the present place since 1999 and his wife is not suffering from "Asthma" as is evident from X-ray report enclosed by the applicant at page 17 of the OA. The learned counsel for the respondents further submits that the transferred place, i.e. Muri is

hardly 50 Kms away from Ranchi and as per rules, the applicant can retain his quarter at Ranchi.

5. Heard the parties and perused the materials on record. We have also perused the Master Circular No. 21 with regard to Transfer of Non-gazetted Railway Servants. Para 9.2 of the said circular prescribes that Mid-session transfers of Railwayservants should be kept down to the minimum necessary in the interests of administration. It is noticed that applicant's daughter is a student of BIT, Meshra and his son is a student of Class XII who is going to appear in the annual examination CBSE, 2019 in the month of March, 2019. Further, Para 4.2 of the said circular prescribes that whenever any curtailment in a cadre takes place and Railway servants have to be transferred, as a general rule the junior most employees should be transferred first.

6. It is fairly well established that the Hon'ble Supreme Court has held in a large number of cases that transfer is an incidence of service. Since a public servant holds a transferable post he has no vested right to remain in a place of his choice. He is liable to be transferred in the administrative exigencies from one place to another. Who is to be transferred where is the mater for the appropriate authority to decide. However, in the instant case, it is observed that the applicant has been transferred in violation of Para 9.2 of Master Circular No. 21 which prescribes that mid-

sessiontransfer of railway employees should be kept down to the minimum necessary in the interests of administration. So before issuing the transfer order, the respondents should have keep in mind the mid-session of applicant's son, who is going to appear in Class-XII exam in March, 2019. It is also noticed that the applicant has not been relieved till date and he has been paid salary till 19.11.2018 and he is on sick leave w.e.f. 20.11.2018. Therefore, we are of the considered opinion that in the interest of justice the transfer order of the applicant should be kept in abeyance till the end of academic session of applicant's son.

7. Accordingly, the respondents are directed to consider the representations of the applicant dated 05.08.2018 and 06.08.2018 (Annexure-4) and pass a reasoned and speaking order within a period of three months from the date of receipt of this order. In the meantime, the transfer order dated 20.07.2018 is kept in abeyance. The OA is, accordingly, disposed of at the admission stage itself. No order as to costs.

**[ Pradeep Kumar ]/M[A]**

**[Jayesh V. Bhairavia ]/M[J]**

Srk.