

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

OA No.2087/2017

Reserved on: 31.01.2019

Pronounced on:13.02.2019

Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Ms. Aradhana Johri, Member (A)

Parvez Akhtar (Age about 37 years), Group 'C',
S/o. Sh. Mohammad Rashid,
Working as Loco Pilot Shunter,
Under Sr. Crew Pilot Shunter,
Northern Railway,
Ghaziabad, UP.

...Applicant

(By Advocate : Mr. Gaya Prasad)

Versus

1. Union of India, through
General Manager,
Northern Railway,
Baroda House, New Delhi.

2. Sr. Divisional Personnel Officer,
Northern Railway, Delhi Division,
DRM Office, State Entry Road,
New Delhi.

...Respondents

(By Advocate : Mr. Prabodh Kumar Singh for Mr. Kripa Shankar Prasad)

O R D E R

By Hon'ble Ms. Aradhana Johri, Member (A) :

The applicant, Shri Parvez Akhtar was appointed as
Apprentice Assistant Loco Pilot on 07.12.2009 and after
training posted in Delhi Division under Northern Railway.

He became regular Assistant Loco Pilot on 23.08.2010. He gave an inter Railway transfer request on 18.06.2012 to Danapur under East Central Railway. When the transfer did not materialise, he filed O.A No. 599/2017 in which the following orders were passed on 02.03.2017 :-

“4. In the circumstances, the O.A is disposed of at the admission stage, without going into the other merits of the case, by directing the respondents to consider the representation dated 11.08.2016 of the applicant and to pass appropriate speaking and reasoned orders thereon, in accordance with law, within 90 days from the date of receipt of a copy of this order. No order as to costs.

Let a copy of the O.A be enclosed to this order.”

2. In compliance with the above orders, a speaking order was passed by Senior Divisional Personnel Officer, New Delhi on 17.05.2017, which clarified the position regarding certain transfer done from Delhi to Moradabad and Lucknow Divisions due to shortage and administrative exigencies as the reason for these transfers. This order further indicated that the Inter Railway transfer requested by the applicant would be considered when his turn came as per priority register.

3. Aggrieved by this order, the present O.A has been filed.

4. The grounds taken by the applicant are that someone junior to him has been transferred from Delhi

to Lucknow and certain other transfers have also taken place. He has contended that this is in violation of the Railway Board Guidelines and Policy which provide for transfer requests being made on the basis of their registration in the priority register. He has further alleged that there was a shortage of Assistant Loco Pilots in East Central Railway for which notification for recruitments were issued. He has claimed that his representation has been illegally turned down without application of mind by passing a non-speaking, non-reasoned and irrelevant order.

He has claimed the following reliefs :-

“i. to allow the O.A and quash and set aside the impugned order dated 17.05.2017 (Ann.A-1) passed by the Senior Divisional Personnel Officer, Northern Railway, New Delhi (Respondent No.2) and consequently direct the Respondents to consider the case of the Applicant for Inter Railway Transfer and also direct to relieve him on request on accepting bottom seniority from Delhi Division, N. Rly. To Danapur Division of Hazipur Zone as per request of Applicant.

ii. to pass any other order/orders which deem fit and proper in the interest of justice.”

5. The respondents have denied the allegations and have clarified that there was a shortage in Moradabad and Lucknow Divisions and since operation and safety of trains was at stake, transfer to these divisions were done. They have stated that the applicant's name is registered against priority No. 66 in the Register and no violation of the guidelines has been done.

6. Heard Mr. Gaya Prasad, learned counsel for applicant and Mr. Prabodh Kumar Singh for Mr. Kripa Shankar Prasad, learned counsel for respondents.

7. The guidelines for Railway Board Policy as given in the O.A are as follows :-

“The request transfers are considered presently after registering them on priority register on first come first serve basis. But to extend equal opportunity to all the field staff to whom this information would take some trying to reach. It has been decided as a one time measure to put on hold the present practice, for two months, from the date of issuance of these instructions. The application received would be registered only and priority would be registered only and priority would be allotted on the basis of length of service of the transferring staff during these two months. Thereafter, the mode of the registering requests of transfer on the basis of first come first serve would resume as per the present practice.

However, the practice of releasing / sparing of transfer requesting staff, who fulfil the existing conditions on the basis of the exigencies of service and availability of relief vice them, would continue, as is being done now”

8. Though the respondents have stated that the priority of the applicant is at Sl. No. 66 in the priority register, which is at Annexure R/1, but, Sl. No. 66 is Sh. Jitnder Kumar Pathak. The name of the applicant does not appear to be in the Register. However, a scrutiny of the last column, which is date of the application, reveals that since the transfer application was given in June, 2012, the priority of the applicant would be after Sl. No. 68, Sh. Subhash Kumar Singh.

9. Other than the postings from Delhi Division to Lucknow, the applicant has not been able to point out any other case of transfer on request.

10. The applicant has cited judgment of Ernakulam Bench in O.A No. 1109/2012, 1110/2012 & 1158/2012 in **Anima Kujur & Ors. Vs. Union of India & Ors.** decided on 25.02.2013. However, in the case in question, the transfer order had already been passed and the applicant had to be relieved, which is not the case in the present O.A. Further, the case of **Sandeep Kumar Vs. Chief Commissioner of Central Excise** in O.A No. 333/2016 decided on 12th July, 2016, has been relied upon. In that particular case, the directions were for framing a set of guidelines clearly delineating eligibility norms, giving due weightage to various components such as seniority. These directions were issued so that the system may not be opaque. Further directions were given to consider the case of the applicant along with others according to the prescribed transfer norms to be adopted. Therefore, both these cases do not help the applicant in the current O.A.

11. Further, the present guidelines themselves provide for exigencies of service and availability of relief, which must be adhered to.

12. The order dated 17.05.2017 in compliance of orders of this Tribunal is a speaking order, which clearly gives reasons why the request of the applicant cannot be acceded to immediately. It also clarifies that there was shortage of staff in Moradabad and Lucknow Divisions, which was why Assistant Loco Pilots were transferred to Lucknow and Moradabad on the basis of administrative exigencies. Further, this order does not reject the representation of the applicant but states that his request for Inter Railway Transfer will be considered as and when his turn comes as per priority register.

13. However, since Annexure R/1, which is a copy of the Priority Register does not contain the name of the applicant due to some oversight, his priority may be indicated at the appropriate place according to the date of his first representation.

With the above observations, this O.A is dismissed with no orders as to costs.

(Aradhana Johri)
Member (A)

(V. Ajay Kumar)
Member (J)

/Mbt/