

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original application No.040/00450/2016

Date of Order: This the 30.11.2018

**HON'BLE MRS.MANJULA DAS, JUDICIAL MEMBER
HON'BLE MRN.NEIHSIAL, ADMINISTRATIVE MEMBER**

Shri Abhay Kumar Sinha
S/O Late Kalicharan Prasad
Working as Assistant Station Master/DCA
Katakhali Station,
Lumding Division,
N.F.Railway
District-Cachar,
PIN-788818, Assam

Applicant.

By Advocate Mr.M.Chanda

-Versus-

1. Union of India
Represented by the General Manager
N.F.Railway, Malignon
Guwahti-11
2. General Manager(P)
N.F.Railway, maligaon
Guwahati-11
3. Ddivisional Rilway Manager(P)
N.F.Railway, Lumding
District-Cachar, Pin-788818
Assam ... Respondents

O R D E R (ORAL)

Per Mrs.Manjula Das, Judicial Member:

This O.A. has been filed by the applicant under Section 19 of the Administrative Tribunals, Act 1985 with the following reliefs.

“8.1 That the Hon’ble Tribunal be pleased to direct the respondents to issue transfer order in favour of the applicant, and thereby he may be spared from LMG division to Katihar Division of N.F.Railway on the basis of his request for such transfer with immediate effect.”

2. The brief facts, as narrated in the O.A are that applicant was initially appointed as Assistant Station Master (ASM in short) on 15.01.2005 at Jatinga under the DRM(P) Lumding Division. The applicant had worked at Jatinga till 2009 and thereafter he was transferred and posted at Katakhali Station and since then he has been working there.

3. Mr.M.Chanda learned counsel for the applicant submitted that while the applicant serving as ASM, he submitted his first representation on 28.3.2008 for his inter

divisional transfer and thereafter, the CPTM/NFR Maligaon has approved for inter divisional transfer of the applicant vide office order No.F/255/IDT/LMG-ASM(T) dated 14.10.2009. Thereafter, the applicant submitted representations dated 02.04.2016, 31.08.2016 and 07.09.2016 for his inter divisional transfer from Lumding Division of N.F.Railway to Katihar Division. But the respondents did not consider the said representations of the applicant.

4. Learned counsel for the applicant further submitted that the large numbers of batch mates and juniors who were subsequently appointed and joined as ASM in the Lumding Division under the DRM(P), Lumding have been transferred and posted from Lumding Division to other Divisions including Katihar Division and other zones since 2005 onwards.

5. Learned counsel for the applicant further submitted that the juniors of the applicant have already been transferred as per their own request. But the applicant

has been neglected by the respondents which is highly arbitrary, illegal and unfair on the part of the Respondents.

6. In the written statement, the respondents have contested the claim of the applicant. According to Ms.U.Das, learned Standing counsel for the Respondents, the applicant has submitted an application for inter division transfer from Lumding Division N.F.Railway to Katihar Division, N.F.Railway and at present his priority serial No. is 16. The batch mates who are spared from Lumding Division to other division are juniors and the juniors who are spared for inter division transfer from Lumding Division to Katihar division within this Railway on out of turn basis in terms of Railway Board's order and GM (P) MLG's order as well as on medical ground of the staff concerned.

7. Ms.Usha Das, learned counsel for the respondents further submitted that it was clear from Para 226 of IREM Vol.1 that ordinarily, a railway servant shall be employed throughout his service on the railway or railway establishment to which he is posted on first appointment

and shall have no claim as of right for transfer to another railway or another establishment. Hence applicant has no right for transfer.

8. Ms.Usha Das, learned Standing counsel for the railways submitted that still there are 119 vacancies of SS/SM/ASM (Unified cadre) in the concerned division and in the meantime the requirement of the division had been increased for additional 189 Nos. of ASMs due to opening of new railway lines/section and therefore, applicant could not be released from the Lumding Division.

9. Learned counsel for the applicant forcefully rebutted the aforesaid contention of the learned Standing counsel for the Railways and submitted that large number of juniors to the applicant have been spared in violation of the priority list and on those occasions the ground of acute Shortage of staff were not raised.

10. It is not disputed at any level that the applicant's request for inter railway transfer was recommended/forwarded by the competent authority and

the same has been accepted by the receiving zone. After the approval based on mutual consent, the delay in relieving does not speak well of the respondents.

11. In view of the forgoing reasons, we are of the considered view that applicant cannot be made to wait inordinately for effecting his inter railway transfer. Therefore, the respondents are directed to consider the case of the applicant for his inter Divisional railway transfer from Lumding division to Katihar division as expeditiously as possible, but not later than four months from the date of receipt of this order.

12. The O.A. is disposed of accordingly. There shall be no order as to costs.

(N. NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)

