

No. CPC 350/00068/2015
(OA 350/00351/2015)

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Mr.R.Bandyopadhyay, Administrative Member

SAROJ KUMAR SINGH

VS

UNION OF INDIA & ORS. (E.RLY.)

For the applicant : Mr.P.C.Das, counsel
Mr.B.Chatterjee, counsel

For the respondents : Mr.S.Roy, counsel

Order on : 4.9.15

O R D E R

Ms. Bidisha Banerjee, J.M.

The OA was disposed of on 4.3.15 with the following orders :

"The applicant is aggrieved by an transfer order dated 4.2.15 whereby he has been transferred from Asansol Division to Sealdah Division. He is a Sr. Cashier and objects to such transfer on the following grounds :

i) The transfer order has been issued in violation of the Railway Board's instructions dated 31.12.98, RBE 265/98 which is as follows :

However, if the employee is under suspension and the investigation is likely to take some time and the authority competent to revoke suspension is of the view that the presence of the Railway servant may prove detrimental to the collection of evidence etc. Or that he may tamper with the evidence the competent authority may transfer him on revocation of the suspension

Since the transfer is an inter-Divisional transfer, it is sought to be stayed.

ii) In various decisions of this Bench transfer orders have been quashed on the ground that the mandate of the Hon'ble Apex Court in WP(C) 82/11 which was sought to be implemented by way of 10.6.14 circular of the Railway Board by directing that there should be a Placement Committee to recommend transfer and postings of all railway servants as per the said decisions. It has been contended that since the transfer has been made by an individual officer and not routed through a Placement Committee, the transfer order deserves to be quashed.

2. Ld. Counsel for the respondents submits that no Placement Committee has been set up in the Railways as yet.

3. In view of the position that the transfer order is infact in violation of the Railway Board's circular as referred to hereinabove, the transfer order is quashed.

4. The OA is allowed. No order is passed as to costs."

2. The respondents had preferred one Review Application numbered RA. 7/15, submitting that the applicant had obtained the order in the OA by practising fraud on the Court in as much as ~~they have~~ ^{he} suppressed the fact that the transfer order, impugned in the OA, was issued after being routed through a Placement Committee duly constituted in terms of the Railway Board's instructions dated 31.12.98, as contained in RBE 265/98. The recommendation of the Placement Committee in regard to the present applicant as contained in Annexure RA/3 was referred to in support. On the basis of such submission of the Id. Counsel for the respondents, the order dated 4.3.15 in the OA was recalled and the OA was listed for hearing along with CPC 68/15 which was preferred alleging violation of the order passed in the OA.

3. As such the present OA has come up for fresh hearing along with the CPC.

4. Id. Counsel for the applicant during the course of hearing had drawn our attention to the recommendations of the Placement Committee and has rightly urged that the Committee was not constituted in accordance with Board's circular dated 10.6.14 in as much as the same officer on 29.1.15 signed both as Dy. CAO(G) as well as "JAG Officer in-charge of C&E Office, Dy. CAO(G)" while another officer put his signature on 30.1.15, which clearly indicates there was no valid constitution of Committee as on 29.1.15 in accordance with Railway Board's circular dt. 10.6.14 which specifically enjoins that Committee in regard to transfer of Group 'C' employees in Zonal Railway Headquarters would constitute of all the following officers :

- a) JA/SG officer of Personnel Branch
- b) The concerned JA/SG officer of the concerned department
- c) One JAG/SG officer of a Department outside the concerned department

Being not recommended in terms of the Board's order i.e. by a valid committee, the recommendations were ipso facto void.

Such being the position although we note that the so called recommendations was accepted by the FA & CAO on 30.1.15, we are unable to

concur with the view of the respondents that the transfer was routed through a Placement Committee in accordance with the instructions of the Railway Board and thereafter the transfer order was issued.

In fact we note that Id. Counsel for the respondents has deliberately mislead this Tribunal due to which this Tribunal got tempted to recall its own order passed in the OA. The respondents are thus penalised with a cost of Rs.5000/- to be paid to the Prime Minister's Relief Fund.

Consequently the transfer order which is not routed through a Placement Committee and is thereby issued in violation of Railway Board's order dt 10.6.14, issued in the wake of Apex Court's mandate in WP(C) 82 of 2011 is quashed. The applicant is allowed to join his parent office.

5. Accordingly the OA is allowed with liberty to the respondents to act in accordance with law.

6. In view of the recalling of the order dated 4.3.15 we note that the CPC has become infructuous.

(R.BANDYOPADHYAY)
MEMBER (A)

(BIDISHA BANERJEE)
MEMBER (J)

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