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CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA 350/00497/2016

Date of order : 25.4.2016

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member

SUMIT SENGUPTA

VS

UNION OF INDIA & ORS.

For the applicant : Mr.A.K.Banerjee, counsel
Mr.P.Sanyal, counsel

For the respondents : Mr.M.K.Bandyopadhyay, counsel

O R D E R

This matter is taken up in the Single Bench in terms of Appendix VIII of Rule 154 of CAT Rules of Practice, as no complicated question of law is involved, and with the consent of both sides.

2. Heard the ld. Counsels for the parties and materials on record perused.
3. The applicant seemed to be aggrieved in regard to a transfer order dated 3.9.14 whereby and whereunder he was transferred from Sealdah to Dakshin Barasat on administrative ground. It has been alleged that while issuing such transfer order the authorities have overlooked the Railway Board circular dated 10.6.14 circulated on 19.6.14 which mandates transfer through a duly constituted Placement Committee. The transfer is also assailed on the ground that it has been issued on a pick and choose policy ignoring the applicant's prayer made from time to time for his posting in non-cash handling point.
4. It would be noted that time and again this Tribunal has deprecated the practice of issuing transfer orders without being routed through a Placement Committee. The respondents have also failed to justify in what manner transfer on administrative ground could be made without following the Railway Board's circular dated 10.6.14 which reads as under :

"Sub : Implementation of Supreme Court's judgment dated 31.10.2013 in WP(C) 82/2011 Postings/Transfers in Railways.

The Hon'ble Supreme Court in its judgment dated 31.10.2013 in Writ Petition (C) 82/2011 inter alia directed that :-

"There should be a Committee to be constituted at appropriate levels to decide postings and transfers of all Group 'A', 'B' and 'C' officials even if within the same zone. The postings/transfer to be regulated by transparent policies with assured minimum tenure. Policy provision may, therefore, be framed."

2. Board has decided that there should be Placement Committee to recommend transfer/postings of all Railway servants as per Hon'ble Supreme Court's decisions. The following shall be the Placement Committees :

i) For officers of the level of Group 'B' to Selection Grade in the Zonal Railways and Production Units/Construction Organisations/RDSO etc and Workshops.

- a) PHOD/CHOD/Cadre Controlling Officer of the concerned department.
- b) Chief Personnel Officer/HOD of Personnel Department and standby officer would be another SAG, IRPS officer
- c) One PHOD/CHOD of a Department outside the concerned department

Competent Authority: The Competent Authority to accept the recommendations of the above Placement Committee will be General Manager/Head of the Organisation."

ii) For officers of the level of Jr. Scale and Sr. Scale in the Zonal Railways and Production Units/Construction Organisations/RDSO etc and Workshops.

- a) HOD of the concerned cadre.
- b) HOD of Personnel Department
- c) HOD from another department

Competent Authority: The Competent Authority to accept the recommendations of the above Placement Committee will be the PHOD of the Cadre.

iii) For officers of the level of Group 'C' in Zonal Railway Headquarters.

- 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.

Competent Authority: The Competent Authority to accept the recommendations of the above Placement Committee will be the PHOD/CHOD of the Cadre.

iv) For officers of the level of Group 'C' in Railway Divisional Office.

- a) JA/ SG officer of Personnel Branch
- b) Cadre Controlling Officer of the Department (JAG/ SG/ Sr. Scale)
- c) JA Grade Officer outside the Department (JAG/ SG/ Sr. Scale).

Competent Authority: The Competent Authority to accept the recommendations of the above Placement Committee will be DRM/ ADRM.

v) For officers of the level of Group 'C' in Production Units and RDSO/ Workshop.

Production Units/Workshops

- a) Sr. Scale/JA/ SG officers of Personnel Department
- b) One JA/ SG Officer of a Department outside the concerned department
- c) One JA/ SG Officer of the concerned Department

Competent Authority: The Competent Authority to accept the recommendations of the above Placement Committee will be CME/CWE/CWM.

For RDSO the placement committee shall be :

- a) JA/ SG Officer of Personnel Department
- b) JA/ SG officer of a department outside the concerned department
- c) JA/ SG Officer Personnel Department

Competent Authority: The Competent Authority to accept the recommendations of the above Placement Committee will be Sr. ED/In-Charge of the Cadre.

Note : (i) The concerned PHOD/CHOD of the Cadre will nominate the officer from his cadre in various Placement Committee. The GM/DRMs and Heads of Organisations may suitably modify the Placement Committee depending upon the availability of members of the Committee.
(ii) They will nominate suitable stand by members.

3. **Functions :** The following will be functions of the Placement Committee :

- (i) To consider and make recommendations for transfer and posting of officers/staff and to make recommendation as per explicitly stated applicable norms under various extant instructions on transfer/postings.
- (ii) For postings for various posts in Board, the suitability for a particular post will be governed by guidelines issued by the concerned Functional Board Member.
- (iii) The Placement Committee would meet at least once in three months and also when required at the time of transfers or promotions.

(b) **Tenure in Zonal Railway, Production Units/Workshops**

The minimum tenure in any post upto SAG will be 2 years & maximum 4 years subject to guidelines issued in connection with posting in sensitive posts

(c) **Tenure in RDSO**

A minimum of 2 years and a maximum of five year tenure will be permitted for the officers of the rank of Joint Director, Director and Executive Director.

Note : The Respective Competent Authority may overrule the recommendations of the Placement Committee by recording the reasons in writing."

5. A bare perusal of the circular would exemplify and demonstrate that the provisions are mandatory in nature and not to be relaxed under any

circumstances. Therefore the provisions of the circular issued by the Railway Board could not be given a go bye by the local authorities who have not been empowered to sit above Railway Board's directives, disobey the same or grant concession or relax the provisions in respect of any individual or group. The attempt to transfer on the basis of recommendation of a single officer was therefore uncalled for.

6. However, a representation as preferred before the Sr. Divisional Commercial Manager, Sealdah, by the applicant against the said transfer is pending since 7.10.15.

7. Therefore, the OA is disposed of without asking for affidavit with the consent of the parties with a direction upon the said authority i.e. respondent No. 3 or any other competent authority to look into the grievance of the applicant and consider his prayer for retention keeping in view that the transfer made after issuance of the Board's order dated 10.6.14 could not be made at the behest of an individual officer without being routed through a Placement Committee.

8. The respondents would be at liberty to withdraw the transfer in regard to the applicant and pass an appropriate order for his retention.

9. Till such time the transfer order would remain stayed.

10. Accordingly the OA would stand disposed of. No order as to costs.

(BIDISHA BANERJEE)
MEMBER (J)

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