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**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA**

O.A/350/1686/2017

Date of Order: 09.09.2019

**Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. (Ms.) Nandita Chatterjee, Administrative Member**

D. Ganpathi Rao, son of Late D. Jagadishwar Rao, aged about 44 years, working as Helper-I under Senior Divisional Material Manager, Chakradharpur Division, residing at Qtr. No. L/36, B-1, Unit-3, Near Satelment, Post Office – Kharagpur, District – Paschim Medinipur, Pin 721301.

--Applicant

1. The Union of India, through the General Manager, South Eastern Railway, Strand Road, Fairly Place, Kolkata 700001.
2. The Senior Divisional Material Manager, South Eastern Railway, Chakradharpur Division, Pin-833102.
3. Deputy Chief Material Manager, South Eastern Railway Kharagpur, Pin 721301.

--Respondents

For The Applicant(s): Mr. A. Chakraborty, Counsel
Ms. P. Mondal, Counsel
For The Respondent(s): Mr. S. Banerjee, Counsel

ORDER (ORAL)

Per: Ms. Bidisha Banerjee, Member (J):

Heard ld. counsel for both sides.

2. This application has been filed to seek the following reliefs:

- "i) Speaking order dated 16.06.2017 issued by the Dt. Chief Material Manager, South Eastern Railway, Kharagpur, cannot be sustained and as such same may be quashed.
- ii) An order do issue directing the respondent to reconsider the case of applicant for his posting at Kharagpur Division when it is admitted by the respondents that the disease is facing by the applicant is serious in nature."

3. The impugned speaking order issued on 16.06.2017 reads as under:

"D. Ganpathi Rao, Helper-II, is suffering from Psoriasis since 1999. The ailment condition of Sri D. Ganpathi Rao (applicant) and treatment papers have been examined and it is revealed that although the disease is critical in nature but no such serious for which his daily duty working is hampered. As per advice of Medical authority of CKP i.e Sr. DMO/CKP he is attending the Central Hospital/GRC occasionally for time scheduled check up & collecting medicine etc. But neither Medical Authority of CKP Division nor Medical Authority of Garden Reach has intimated anything about his suitable place of posting for better treatment.

Regarding transfer of Sri Rao from CKP to KGP it is stated that as per rules, Sri Rao has been transferred to DKP Division on administrative ground. There are acute shortage of staff of outstation depots at present.

The administration is not in a position to consider the transfer of D. Ganpathi Rao, from CKP to KGP at this stage.

This dispose of the applicant's representation dtd. 09.01.2017 as well as the direction of Hon'ble Court dated 13.04.2017 passed on O.A No. 350/00562/2017."

4. At hearing, Ld. counsel for the applicant vehemently opposing the contention of the respondent that the ailment is not serious, would submit that the authorities ought to have observed as such after getting his physical condition examined by medical experts and that the transfer committee did not ask for opinion of any such expert before approving transfer and, therefore, the respondents should be directed to re-consider in terms of fresh representation after getting him examined by medical experts.

5. Ld. Counsel for the respondents has no objection if such fresh representation is preferred by the applicant.

6. Accordingly, the O.A is disposed of with liberty to the applicant to make a comprehensive representation, annexing all the medical reports and certificates etc., to seek modification of the posting order to a nearby place, before the Respondent No. 3, who is the Dy. Chief Material Manager (GSD), or any other competent authority within 4 weeks from the date of receipt of a copy of this order.

7. On receipt of such representation, the competent respondent authority shall look into the grievance of the applicant, take opinion of medical experts, consider the prayer made in the representation in accordance with law and issue a reasoned and speaking order within 8 weeks from the date of receipt of a copy of such representation.

8. It is made clear that we have not entered into the merits of the matter and therefore all the points are kept open for the respondents. No costs.

(Nandita Chatterjee)
Member (A)

(Bidisha Banerjee)
Member (J)

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