

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

OA/20/1235/2016

Dated: 07/06/2019

Between

A. Satyanarayana, S/o. A. Savaramma,
Aged 50 years, Occ: Chief Office Superintendent,
O/o the Senior Section Engineer (P.Way),
South Central Railway, Guntakal Division,
Nandyal, Kurnool District 6 518 333
(on transfer to Nanded Division)

... Applicant

AND

1. Union of India rep. by
The General Manager,
Rail Nilayam, 3rd floor,
South Central Railway,
Secunderabad.
2. The Chief Personnel Officer,
Rail Nilayam, 4th floor,
South Central Railway,
Secunderabad.
3. The Divisional Railway Manager,
South Central Railway,
Guntakal Division, Guntakal.
4. The Senior Divisional Personnel Officer,
South Central Railway,
Guntakal Division, Guntakal.
5. The Divisional Railway Manager,
South Central Railway,
Nanded Division, Nanded,
Maharashtra State.

... Respondents

Counsel for the Applicant : Mr. KRKV Prasad

Counsel for the Respondents : Mrs. A.P. Lakshmi, SC for Rlys.

CORAM :

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman

Hon'ble Mr. B.V. Sudhakar, Admn. Member

ORAL ORDER

(Per Honøble Mr. Justice L. Narasimha Reddy, Chairman)

Time and again, Honøble Supreme Court has been cautioning the High Courts and the Tribunals to be a bit vigilant in cases where the allegations of corruption against employees are being enquired into, and to ensure that, no orders are passed encourage persons facing such allegations. Despite that instances are taking place where employees facing such allegations are conferred with one benefit or the other.

2. The applicant is working as Superintendent in South Central Railway and was stationed at Nandyal in Guntakal Division. A trap was laid by CBI on 2.7.2016 and he was caught red handed, while accepting illegal gratification. CBI registered a case under relevant provisions of law and the department also initiated proceedings and placed him under suspension. As suggested by the Vigilance Wing, the respondents transferred the applicant to Nanded Division through order dated 8.11.2016. The same is challenged in this O.A.

3. The applicant contends that there was no basis for transferring him to Nanded Division, which is far from Guntakal Division. It is also stated that the transfer is contrary to Para 226 of IREC.

4. The respondents filed counter affidavit opposing the O.A. It is stated that the allegations against the applicant are serious in nature and keeping that in view, and to ensure that discipline in the organization is maintained, he has been transferred to Nanded Division. It is stated that no provision of law has been violated in this behalf and that the applicant is continuing in the same place for the past several years on the strength of interims orders.

5. Heard Sri K.R.K.V Prasad, learned counsel for the applicant and Smt. A.P. Lakshmi, learned Standing Counsel for the respondents.

6. The allegations against the applicant are very serious. In fact, he has been caught red handed, accepting illegal gratification. Naturally, that warranted steps such as suspension pending inquiry and thereafter transfer to a distant place. The transfer that is ordered against the applicant is mainly on administrative grounds and hardly the convenience of the employee matters. It is almost a substitution for continued suspension.

7. It is true that the applicant is borne on Guntakal Division. However, it is competent for the General Manager of the South Central Railway to make inter divisional transfers, particularly when disciplinary proceedings are pending against an employee. The provision relied upon by the applicant is in relation to inter divisional transfers on requests. Even that enables the inter divisional transfer on the grounds of exigency of service.

8. Learned counsel for the applicant submits that the criminal case against the applicant is ripe for trial and the presence of the applicant is needed for issuance for proper instructions to his advocate. If that is so, first he has to join in Nanded Division in compliance of the order of transfer and then, make a representation to the authorities, who in turn shall take it into consideration and passes appropriate orders thereon.

9. We, therefore, dispose of the O.A. and vacate the interim order. However, we direct that in case the applicant makes a representation to the respondents after joining in Nanded Division, the same shall be considered and appropriate orders shall be passed, within six weeks from the date of representation. It is made clear that if representation is made without joining in Nanded Division, it shall not be entertained.

10. There shall be no order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN

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