

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00337/2019
With
MA/050/00236/2019

Reserved on : 06.11.2019
Pronounced on: 08.11.2019

C O R A M
HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER

Vijay Kumar Verma, son of Late Ramasaran Prasad, resident of Mohalla-Chitrakut Nagar, B.B. Ganj, P.O.- MIT, Muzaffarpur, PS- Sadar, District-Muzaffarpur.

.... Applicant.

By Advocate: - Mr. S.K. Bariar

-Versus-

1. The Union of India through the General Manager, EC Railway, Hajipur- 844101.
2. The Divisional Railway Manager, East Central Railway, Samastipur- 848101.
3. The Sr. Divisional Personnel Officer, East Central Railway, Samastipur- 848101.
4. The Assistant Personnel Officer- III, East Central Railway, Samastipur- 848101.
5. Mr. Anil Kumar Mishra, OS, Office of Assistant Divisional Engineer-II, E.C. Railway, Darbhanga- 826001.

.... Respondents.

By Advocate: - Mr. B.K. Choudhary, Sr. Panel Counsel
Mr. Bindhyachal Rai

O R D E R
[ORAL]

Per Dinesh Sharma, A.M:- In the instant case, the applicant has alleged that he has been transferred four times in one and a half years. Such transfer, against the normal tenure of four years fixed as per the order dated 31.10.2013 passed in WP© No. 82/2011 of the Hon'ble Supreme Court, without placing the matter before the placement committee is bad

in law and should be therefore quashed. He has also prayed that he may be transferred to Samastipur in his cadre, i.e. Personnel Department as he is going to retire very soon.

2. The respondents have filed a written statement in which they have mentioned that he was transferred from Raxaul to Samastipur on his own request and also from Samstipur to Narkatiaganj on his own request after the consent of the placement committee. The current transfer is for administrative reason and he has been transferred from one office in Darbhanga to another office at the same place and the lien and seniority of the applicant is retained in Personnel Department. The transfer order neither changes the distance of his posting place nor his post or seniority. The consent of the placement committee was obtained for the impugned transfer order dated 01.04.2019 and the applicant is not entitled to any relief as claimed by him in the present OA.

3. The applicant filed a rejoinder in which he reiterated that the transfer order dated 01.04.2019 has been issued only to accommodate the private respondent Shri Anil Kumar Mishra and therefore it is incorrect to transfer the applicant to accommodate another person.

4. Since an ad interim order was issued keeping in abeyance the order dated 01.04.2019, MA/050/00236/2019 was filed by the official respondents for vacating the interim relief. The respondents have also filed a reply to the rejoinder denying his allegation that the transfer has been made only to accommodate the private respondent.

5. We have gone through the pleadings and heard the learned counsels of both the parties. We find that by the impugned transfer order the applicant has been placed in another office at the same place of posting and the respondents have categorically denied that it has been done only in order to accommodate another person. The respondents have clarified that the applicant being Office Superintendent comes under the Personnel Department and his lien remains in the Personnel Department wherever he is posted. Thus, there is no change of cadre or deputation which may require consent from him and the issue of repatriation back to his cadre does not arise. The respondents have also alleged that due to non-joining of the applicant within the same place of posting the work is suffering and therefore this Tribunal should not come in the way of such transfer and posting. In the light of the aforementioned facts, we are satisfied that the claim of the applicant about any grave inconvenience caused to him by the impugned transfer order is not correct. The order has apparently not made any change in his cadre giving rise to any request for repatriation in the parent cadre. The OA lacks merits and is, therefore, dismissed and the stay is vacated. The learned counsel for the applicant has submitted in his written arguments that the post from which he was transferred is still kept vacant. Under the circumstances, if a representation is made by the applicant, the respondent authorities may consider and pass appropriate orders. No costs.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairavia]
Judicial Member