

(2020) 10 CAT CK 0146
In the Central Administrative Tribunal
Case No : Original Application No. 1648 Of 2020

Anil Kumar

APPELLANT

Vs

Union Of India & Others

RESPONDENT

Date of Decision : 29-10-2020

Acts Referred:

Citation : (2020) 10 CAT CK 0146

Hon'ble Judges : L. Narasimha Reddy, J; Mohd. Jamshed, Member (A)

Bench : Division Bench

Advocate : Anirudh Bakru, Krishan Kant Sharma

Final Decision : Disposed Of

Judgement

Mohd. Jamshed, Member (A)

1. The applicant is a Senior Administrative Grade (SAG) officer in the Railways. While working as Chief Mechanical Engineer (CME) in the Modern

Coach Factory (MCF), Rai Bareilly, he was transferred to East Central Railway (ECR) vide order dated 16.07.2020 issued by the Railway Board.

2. This is the 2nd round of litigation as the applicant had earlier filed OA No. 1188/2020 challenging the same impugned order of transfer. The

Tribunal vide order dated 01.09.2020 disposed of the OA directing the respondents to pass orders on the representation of the applicant dated

25.08.2020, within a period of two weeks. It was also directed that in case the applicant did not join the place to which he was posted, no punitive

steps shall be taken, till the orders are passed on the representations.

3. In the present OA, it is stated that the respondents have dealt with the representation of the applicant dated 25.08.2020. It is also stated that the

respondents have passed impugned order dated 14.10.2020, in compliance of

the orders passed by the Tribunal in OA No. 1188/2020 on 01.09.2020.

By filing the present OA, the applicant is once again challenging the impugned transfer orders dated 16.07.2020, relieving order dated 28.08.2020 and

also the order passed by the respondents dated 14.10.2020. In the meanwhile, the applicant had also filed few more representations dated 29.08.2020,

08.10.2020 and 15.10.2020 and seeks a direction from the Tribunal to the respondents to consider these representations.

4. The applicant contends that he has had an outstanding record of service and was rewarded many times for outstanding work. He submits that the

allegations levelled against him were motivated due to which the vigilance enquiry was conducted by the Railway Board and he was transferred to

ECR.

5. We heard Mr. Anirudh Bakru, learned counsel for the applicant and Mr. Krishan Kant Sharma, learned counsel for the respondents at the stage of

admission, through video conferencing.

6. Respondents have issued transfer order dated 16.07.2020 transferring the applicant to ECR. Vide order dated 25.08.2020, he was advised that his

representation against the transfer has not been agreed to by the Railway Board. Vide order dated 28. 08.2020, the applicant was relieved from MCF,

Rai Bareilly to carry out his transfer to ECR. On 14.10.2020, through a detailed speaking order passed by the Railway Board, the applicant was

advised of the action taken in compliance of Tribunal's order dated 01.09.2020 in OA No. 1188/2020 and that his request for cancellation of his

transfer was not accepted. The sequence of the events also indicates that he was on leave from 01.06.2020 to 31.07.2020. In his later representations,

request has also been made to modify the transfer order to Northern Railway or COFMOW or IROF or RITES.

7. He was aggrieved that his representation dated 25.08.2020 was not finalised despite Tribunal's order dated 01.09.2020. It is now obvious that

the respondents have passed a detailed speaking order on his representation dated 14.10.2020 in compliance of Tribunal's order dated 01.09.2020.

It is also a fact that the applicant has been relieved to join his new place of posting vide order dated 28.08.2020. It is also apparent that he has still not

joined his new place of posting.

8. Various grounds on which the Tribunal can interfere with the order of transfer

are very limited. The competence of the respondents to pass impugned order is not in dispute. This is also not a case where the applicant has been subjected to repeated transfers. In the case of the applicant, the Ministry of Railways have with the approval of the President passed the impugned order dated 16.07.2020. It is also well established that transfer is an exigency of service. In the normal course, the applicant should have joined his new place of posting once the Ministry of Railway's order dated 14.10.2020, in compliance of Tribunal's order was passed. It was, however, pleaded by the applicant that in view of the COVID-19, he has not been able to do so. We are, however, convinced that sufficient time has already been given to the applicant to join at his new place of posting.

9. We are not inclined to interfere with the order of transfer dated 16.07.2020. We are of the view that the order does not suffer from any illegality or infirmity. However, although the applicant has already been relieved to join at his new place of posting vide order dated 28.08.2020, we grant him 10 days time, from the date of receipt of copy of this order to join at his new place of posting and if he does so, no coercive action shall be taken against him.

10. Accordingly, the OA is disposed of with the above directions at the stage of admission itself. There shall be no order as to costs.