

(2016) 04 PAT CK 0178

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 18133 of 2014

Arvind Kumar Mukesh

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 25-04-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 4 PLJR 134

Hon'ble Judges : Mr. Hemant Gupta and Mr. Ahsanuddin Amanullah, JJ.

Bench : Division Bench

Advocate : Mr. P.N. Shahi, Senior Advocate and Mr. Manish Kumar, Advocate, for the Petitioners; Mr. Anil Singh, Advocate, for the Respondents

Final Decision : Dismissed

Judgement

Mr. Hemant Gupta, J.—Heard learned counsel for the parties.

2. The order dated 6th August, 2014 passed by the Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as "the Tribunal") is the challenge in the present writ petition whereby the claim of the petitioner for transfer to East Central Railway remained unsuccessful.

3. The petitioner was posted as Section Engineer, Diesel at Diesel Shed, Jamalpur under Eastern Railway. After creation of the East Central Railway with Zonal Headquarter at Hajipur, as per the Petitioner options were invited from the employees in different Zones for posting at East Central Railway, Hajipur. The petitioner is said to have submitted option for his absorption in East Central Railway, Hajipur. The petitioner asserts that an order for his transfer and absorption was issued by the Office of the General Manager (P), East Central Railway, Hajipur on 26.11.2003 and General Manager, Eastern Railway, Kolkata was requested by the East Central Railway, Hajipur to relieve the petitioner, but the petitioner was not relieved to join East Central Railway, Hajipur. It is thereafter, the petitioner invoked the jurisdiction of the Tribunal which remained

unsuccessful.

4. In the written statement, the stand of the respondents is that on creation of a new Zone namely, East Central Railway, a few DSL Supervisory staffs opted for transfer to East Central Railway, Hajipur on their own volition without approval of the competent authority at Headquarter level knowing fully well that the cadre of DSL Supervisors is Headquarter controlled. Since, there was huge shortage of DSL Supervisors in the Eastern Railway, the competent authority decided not to transfer such diesel staffs.

5. The Tribunal found that the petitioner has no vested right to get transfer to the East Central Railway. He claims to have opted for Headquarter East Central Railway, but has not annexed any copy of his option letter. As per the respondents, the petitioner has sent his option directly and not through Headquarter of Eastern Railway. This was found to be not proper as the cadre of Sections Engineers was Zonal Headquarter Controlled. It is further submitted that neither party has annexed terms and conditions of calling options for transfer to Headquarter East Central Railway, Hajipur when the East Central Railway was created. The Tribunal noticed that options were called only for Headquarter of Zonal Railway and not for Divisions falling under the newly created Zone.

6. In view of the fact that it is the prerogative of the parent Railway Zone to agree or not to agree for inter Railway transfer. The transfer of a staff depends on the requirement of work and staff in a particular category in that Railway Zone. Therefore, the order passed by the authorities was not found to be illegal or arbitrary.

7. We have heard learned counsel for the petitioner and found no merit in the present writ petition. From perusal of the order of the Tribunal, it transpires that the petitioner has opted for transfer without any circular of the Headquarter seeking options for transfer. Still further, even if the petitioner has submitted his option, the petitioner does not get any vested right to be transferred. As per the stand of the respondents, there is a shortage of Diesel Supervisors in the Eastern Railway. Therefore, we do not find any illegality or irregularity in the order passed by the Tribunal which may warrant interference in the present writ petition.

8. The writ petition stands dismissed.