

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17826 of 2016

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1. The Union of India, through the Secretary, Ministry of Railway, Government of India, Rail Bhawan, New Delhi.
 2. The General Manager, East Central Railway, Hajipur.
 3. The Divisional Railway Manager, East Central Railway, Danapur.
 4. The Senior Personnel Officer, East Central Railway, Danapur.
 5. The Assistant Personnel Officer, East Central Railway, Danapur.
 6. The Senior Section Engineer, East Central Railway, Memu Shed, Jhajha.

.... Petitioners

Versus

Shri Sudarshan Kumar, son of Shri Sikandar Sah, resident of village – Bijay, P.O. – Manikpur, P.S. – Tarapur, District – Munger, Bihar, Pin- 813221, presently residing at C/o Sanjeet Kumar Jha, Kusaria Colony, Jasidih, P.O. & P.S. – Jasidih, District – Munger, Bihar, Pin- 814142.

.... Respondents

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Appearance :

For the Petitioners	:	Mr. Anjani Kumar Sharan, Advocate
For the Respondent	:	Mr. Shantanu Kumar, Advocate
		Mr. Birendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
And

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 01-08-2017

Heard learned counsel for the parties.

There is something amiss in the manner certain decisions are taken by the authorities of the present petitioners. There seems to be complete break between rationality and objectivity, otherwise, the



present predicament or observation of the Central Administrative Tribunal (hereinafter referred to as the “Tribunal”), Patna Bench, Patna, against which these petitioners are aggrieved would not have arisen.

An application for mutual transfer was filed before the competent authority on 05.04.2013. The final order, accepting the request for mutual transfer, was passed on 04.02.2016, after almost three years. In the meantime, the person making request for mutual transfer got a promotion, and, therefore, in the changed circumstances, wrote a letter withdrawing his consent, but, then, the authorities quoted a Railway Board’s Circular that once a ‘consent’ always a ‘consent’ has been used for rejecting such prayer against the transfer. The authorities had to understand the Circular of the Railway Board in the context in which it has been issued, as the facts have undergone a change during the long pendency of the request for mutual transfer, then, the changed circumstances would be required to be considered and revisited. There should not be a rigidity of such kind on that level in the decision making especially at the level of superior authorities. It was not the fault of the private



respondent that it took three years for the authorities to approve the mutual transfer case and it was also not the fault of the private respondent that the Railway has granted him promotion which changed his status, and, therefore, he made a request for withdrawal and reconsideration.

In these backgrounds, the observation of the Tribunal that *prima facie* the decision seems to be tainted with mala fide, coupled with unreasonableness may sound too harsh, but, then, there is no other way of describing the manner in which the Railways have gone about taking a decision and trying to force it upon the private respondent.

No interference is required to be made with the impugned order dated 8th April, 2016 passed in O.A. No. 285/2016 by the Tribunal.

The writ application is dismissed being devoid of merit.

(Ajay Kumar Tripathi, J.)

(Rajeev Ranjan Prasad, J.)

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