

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19092 of 2019

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Dilip Kumar Singh S/o late Musafir Singh R/o Flat No. 3 A, Ambikapuram,
Dhanbad Town, P.s.- Dhanbad, Distt.- Dhanbad and at present Flat No. 501,
Kalikat Nagar, P.s.- Rupaspur, Bailey Road, Distt.- Patna

... .. Petitioner

Versus

1. The Railway Board New Delhi, Rail Bhawan, Raisina Road, New Delhi
2. The Director General Railway Protection Force, Rail Bhawan, New Delhi
3. Sri Arun Kumar Director General, Railway Protection Force, Railway Board, Rail Bhawan, New Delhi
4. The General Manager East Central Railway, Hajipur
5. The Principal Chief Security Commissioner Railway Protection Force, ECR, Hajipur
6. Senior Divisional Security Commissioner Danapur, E.C.R.
7. Assistant Security Commissioner Danapur, E.C.R., Hajipur

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Tuhin Shankar, Advocate
For the Respondents	:	Mr. S.D.Sanjay, Senior Advocate
		Mr. Kumar Priya Ranjan, Advocate
		Mr. Pallav, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

7 29-01-2020 The order of this Court dated 07.11.2019 passed in
this case reads thus : -

The petitioner is an Inspector under Railway Protection Force, presently under suspension. A departmental proceeding has been initiated against him and this is an admitted fact that the Inquiry Officer has submitted his report on 11.09.2019. A decision has, now, to be taken by the disciplinary authority on the report of the Inquiry Officer. During pendency of the departmental inquiry and the period of suspension, petitioner's headquarter was fixed at Danapur(Patna). He has put to



challenge the Force Order No. 79/2019 issued under the signature of Staff Officer for IG-cum-PCSC, RPF, ECR, Hajipur dated 26.08.2019 whereby he has been transferred to Southern Railway on administrative grounds. The said force order appears to have been issued under the authority of the Railway Board's letter No. 2019/Sec(E)/TR-3/177(pt) dated 19.08.2019.

It has been informed by Mr. Kumar Priya Ranjan, learned counsel for the Railways that reference to the Railway Board in the context of Railway Protection Force means the Director General, Railway Protection Force. It has been argued by him that the Director General has jurisdiction to order for premature transfer of a member of the force.

Counter affidavit and reply affidavit has been filed on behalf of the respondents. An attempt has been made to justify the petitioner's transfer from Danapur to Southern Railway (Headquarters at Chennai) in the said affidavit.

A question has arisen in the present writ application as to whether a member of the force under suspension could be transferred in the facts and circumstances of the case. This is to be noted that the impugned order dated 26.08.2019 does not indicate that the petitioner has been treated to be a member of the force 'under suspension'.

My attention has been drawn to the Railway Protection Force Rules, 1987 framed in exercise of powers conferred under Rule 21 of the Railway Protection Force Act, 1957, Rule 143 of which reads thus :-

"143. Responsibilities of member of the Force during suspension:-

143.1 A member of the Force shall not, by reason of his suspension, cease to be a member of the Force during the period of his suspension. The powers vested in him as



such member shall be in abeyance but he shall be subject to the same responsibilities, and discipline and penalties to which he would have been subject if he were on duty.

143.2 Every member of the Force shall during the period of his suspension stay at his headquarters or at such place which may be specified by the disciplinary authority and shall present himself daily for attendance to the authority nominated by the disciplinary authority :

Provided that the disciplinary authority may, for special reasons, grant permission in writing to the member to leave the station for a specified period and on revocation of such suspension the period of such absence shall be regularised as kind of leave due in case the period of suspension is treated as period spent on duty." (underlining for emphasis)

Evidently, Rule 143, which deals with responsibility of a member of the force during suspension, *inter alia*, requires that every member of the force shall during period of his suspension stay at his headquarters or at such place as may be specified by the 'disciplinary authority'. It also requires that a suspended member of the force shall present himself daily for attendance to the authority nominated by the disciplinary authority.

In the aforesaid background, the question has arisen as to whether a suspended member of the force can be transferred in exercise of general power of transfer of a member of the force. There does not appear to be any decision of the 'disciplinary authority' in exercise of said power under Rule 143.2 of the Rules fixing or shifting the headquarters of the petitioner during period of his suspension.

In the above noted circumstance, let the Director General, Railway Protection Force file an affidavit stating the authority referring to the statutory



provision under which the said impugned force order has been passed. Since I am of the *prima facie* view that the impugned order transferring the petitioner during his suspension does not have any authority of law, the same shall remain stayed till further orders. The affidavit must be filed within four weeks.

It is indicated that it will be open for the disciplinary authority to take a final decision on the report of the Inquiry Officer, in the meanwhile.

List this case on 05.12.2019 under the same heading.

It is stated at the Bar that in the light of the interim order passed on 17.11.2019, the petitioner's posting at headquarters at Danapur has been restored and the disciplinary proceeding, which was initiated against him, has come to an end.

In view of the subsequent developments, in my view, this application has lost its efficacy.

The petitioner shall be at liberty to approach appropriate forum questioning the decision in the disciplinary proceeding.

The challenge to transfer of the petitioner from the post of Inspector, R.P.F., from Patna to Chennai, which was impugned in the present writ application, has thus become meaningless.

This writ application accordingly stands disposed of



with aforesaid observations.

(Chakradhari Sharan Singh, J)

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