

Court No. - 34

Case :- WRIT - A No. - 2593 of 2020

Petitioner :- Mahesh Chandra

Respondent :- Union Of India Through General Manager North Central Railway And 4 Others

Counsel for Petitioner :- Prashant Mathur, Bharat Kishore Srivastava

Counsel for Respondent :- Anand Kumar Ray

Hon'ble Sudhir Agarwal, J.

Hon'ble Irshad Ali, J.

1. Heard Sri Prashant Mathur, Advocate for petitioner and Sri Anand Kumar Ray, Advocate for respondents.
2. This writ petition has come up against the order dated 23.12.2019 passed by Central Administrative Tribunal, Allahabad Bench, Allahabad (*hereinafter referred to as "Tribunal"*) in Original Application (*hereinafter referred to as "OA"*) No. 330/ 01216 of 2019, whereby Tribunal has found that petitioner has challenged order of transfer passed on 14.10.2019 whereby he has been transferred from the office of Chief Crew Controller, North Central Railway, Cheoki, Allahabad to Tundla on the post of Chief Loco Inspector (Diesel).
3. Tribunal has found that petitioner is not entitled for any interim relief since he is working at Allahabad itself for almost last 18 years and, therefore, order of transfer does not warrant any interference but we find that Tribunal instead of passing a final order, has directed the matter to be listed before Division Bench for further proceedings. In our view, the detailed order passed by Tribunal was suffice to dismiss OA itself since everything was done and there was no reason to keep the matter pending.

4. Be that as it may, we have heard learned counsel for parties on merits of writ petition as well as OA and proceed to decide writ petition accordingly.

5. Admittedly, petitioner was posted at Cheoki, Allahabad initially on 23.07.2001 and thereafter he has been continuously working at Allahabad itself though shunting between Cheoki, Allahabad and Headquarter, Allahabad itself but as a matter of fact he has remained at Allahabad for the last almost 18 years. Chart given in para 9 of the judgment of Tribunal could not be disputed by learned counsel for petitioner. In fact similar facts have been stated by petitioner in para 4.3 of OA itself, which read as under:

“3. That the applicant had joined service under the Railways on 22.04.1987 on the post of Cleaner, after being selected for the same from the open market, and posted as such under the Loco Foreman at Chunar under the present day North Central Railway. From 22.04.1987 to November, 1995, the applicant remained stationed at Chunar on the post of Cleaner. Thereafter, he was promoted to the post of Assistant Loco Pilot in the year 1996 and transferred as such to Tundla where he remained posted till 1997. In 1997, the applicant was transferred back to Chunar, on his own request. However, upon merger of the Chunar Loco Shed, the entire staff of Chunar was moved en bloc to Cheoki by the Railway administration and the applicant remained posted as Assistant Loco Pilot at Cheoki till 2002. In the year 2002, the applicant was promoted to the post of Shunter (Diesel), and posted under the Senior Section Engineer/ Loco/ NCR/ Allahabad where he remained posted till 2003. In 2003, the applicant was granted promotion to the post of Loco Pilot and transferred to Cheoki where he remained posted till 2011. On 13.12.2011, the applicant

was promoted to the post of Chief Loco Inspector and transferred to NCR/ Allahabad. On 08.02.2012, following allotment of staff, the applicant was deployed for duty in the Open Line. On 19.04.2012 the applicant was once again ordered to be posted at CNL and, then, within a short span of less than five months, he was again transferred to Cheoki vide an order dated 15.09.2012. In November, 2014, the applicant was once again transferred and posted at the RDI, Allahabad, where he remained stationed till 12.04.2019. However, vide another transfer order dated 13.04.2019, the applicant was transferred to Cheoki and was continuing to work there when, all of a sudden, and altogether prematurely (after just six months), the impugned transfer order dated 15.10.2019 was passed purporting to transfer him to Tundla.”

6. When questioned that petitioner is working at Allahabad for the last 18 years, learned counsel for petitioner seeks to draw attention that petitioner was posted at Loco/ NCR, Allahabad and Cheoki which are different offices but he could not dispute that Cheoki is a part of Allahabad City itself and virtually and for all practical purposes petitioner has remained in Allahabad for almost 18 years and now he has been transferred to Tundla, whereagainst aforesaid OA was filed.

7. No person has a right to stay at a particular place for long time and in the present case petitioner has already worked at Allahabad for almost 18 years, therefore, we do not find that any valid objection ought to have been raised against order of transfer. Conduct of petitioner clearly shows his lack of bona fide but extra interest for staying at Allahabad for reasons other than bona fide.

8. Moreover, we find that even after promotion petitioner has continued to work at Allahabad. This conduct of petitioner, therefore,

show that he has not approached the Court in a bona fide manner.

9. Since we find that order of transfer does not warrant any interference hence, we dismiss this writ petition as also OA filed by petitioner with cost of Rs. 10,000/-.

Order Date :- 17.2.2020

AK