

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S) No. 4971 of 2018

Dhananjay Singh Munda

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Versus

1.Union of India through the General Manager,

South Eastern Railway, Kolkata

2.Chief Personnel Officer, SER, Kolkata

3.Divisional Railway Manager, SER, Ranchi

4.Sr. Divisional Personnel Officer, SER, Ranchi

5.Sr. Divisional Signal & Telecom Engineer, SER, Hatia, Ranchi

6.Sr. Divisional Personnel Officer, East Central Railway, Mugalsari

Division, Chandauli (UP)

--- --- Respondents

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CORAM: HON'BLE MR. JUSTICE APARESH KUMAR SINGH

HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Petitioner : Ms. Ritu Kumar, Advocate

For the Respondents : Mr. Prabhat Kr. Sinha, CGC

09/12.10.2022 Heard learned counsel for the parties.

2. Prayer of the writ petitioner before the learned Central Administrative Tribunal, Circuit Bench, Ranchi to provide him seniority in the Cable Jointer Cadre from the date of joining at Ranchi Division with payment of increment in the scale with arrears or repatriation of his service to Mugalsari Division as Cable Jointer Grade-I has been declined by the impugned order dated 11.08.2017 in O.A./051/00204/2016.

3. It is not in dispute that the applicant, who was serving in the Mugalsair Division in the pay band of Rs.5200-20200 with Grade Pay of Rs.2800 as Cable Jointer I made a request for transfer to the Ranchi Division and voluntarily agreed to join in the transferee cadre in the Grade pay of Rs.1800 vide declaration dated 27.08.2011. Now the applicant contends that since a number of posts of Cable Jointer I in the grade pay of Rs.2800 have become surplus and are being adjusted against alternative post in the same grade pay, he should be adjusted against one of the surplus post. Learned Tribunal did not accept the submission and rightly so, as once a post is declared surplus, that post cannot be operated to other incumbent. Learned Tribunal also refused to entertain the plea regarding repatriation to the Mugalsarai Division as it was a fresh request and petitioner could not assume to be reverted to the original post in the Mugalsarai Division in the pay band and grade pay in which he was serving there earlier. However, learned Tribunal left it open for the respondent authorities to find out a way to restore the original grade pay of the petitioner, which is a matter of their domain.

However, no rules to that effect were cited by the petitioner.

4. Learned counsel for the petitioner has laboured to impress that the request of the petitioner was not impossible to be accepted at the Ranchi Division on account of several posts of the same grade pay of Rs.2800 being declared surplus. Alternatively, his request for repatriation in his original cadre at the place and grade pay which he earlier held could be considered. However, learned counsel for the petitioner has not been able to improve the case of the petitioner beyond what has been pleaded and argued before the learned Tribunal.

5. Learned counsel for the respondent has filed a counter affidavit and submits that instant plea is a novel one and could not be acceded to in the absence of the rules, more so when his transfer to Ranchi division was on request and voluntary acceptance on lower grade pay of Rs.1800. Any request of the applicant for repatriation to Mugalsarai Division can only be treated as fresh one.

6. Having regard to the short issue involved here and on consideration of the pleadings and submissions of the parties, we do not find any error in the findings recorded by the learned Tribunal. The plea of the petitioner to grant him higher grade pay at Ranchi Division on account of declaration of certain post of grade pay of Rs.2800 as surplus could not be accepted as once the posts are declared surplus, the incumbent holding that posts are accommodated elsewhere. No other employee could be accommodated on such surplus post. Moreover, any request relating to repatriation to the Mugalsarai Division can only be treated as fresh request. As such, no grounds for interference are made out. The writ petition being devoid of merit is accordingly dismissed.

(Aparesh Kumar Singh, J.)

(Deepak Roshan, J.)