

IN THE HIGH COURT OF JHARKHAND AT RANCHI

(Civil Writ Jurisdiction)

W.P.(S) No. 6464 of 2022

Manoj Kumar Goswami, s/o Sri J. B. Das Goswami, r/o Katari Bagan, Road No.08, PO & PS-Namkum, District-Ranchi.

... **Petitioner**

Versus

1. Union of India through Chief Administrative Officer (Con), South Eastern Railway, Garden Reach, Kolkata-43.
2. Chief Signal & Telecom Engineer (Con), South Eastern Railway, Garden Reach, Kolkata-43.
3. Dy. CSTE/CON/HQ/GRC, South Eastern Railway, Garden Reach, Kolkata-43.
4. Dy. Signal & Telecom Engineer (CON), South Eastern Railway, Ranchi, PIN 834001.
5. Divisional Signal & Telecom Engineer (CON), South Eastern Railway, Ranchi, PIN 834001.
6. Sr. DSTE, Open Line, South Eastern Railway, Ranchi Division, at Hatia, PO & PS-Hatia, District-Ranchi, PIN 834003.
7. Divisional Personnel Officer, South Eastern Railway, Ranchi Division, at Hatia, PO & PS-Hatia, District-Ranchi, PIN 834003.
8. Assistant Personnel Officer, South Eastern Railway, Ranchi Division, at Hatia, PO & PS-Hatia, District-Ranchi, PIN 834003.

... **Respondents**

**CORAM: HON'BLE MR. JUSTICE SHREE CHANDRASHEKHAR
HON'BLE MR. JUSTICE RATNAKER BHENGRA**

For the Petitioner : Mr. K. C. Mahto, Advocate
Mr. Akshay Kumar Mahato, Advocate
For the U.O.I : Mr. Anil Kumar, A.S.G.I

ORDER
3rd January 2023

Per, Shree Chandrashekhar, J.

The petitioner has challenged the order dated 13th December 2022 passed in OA No. 051/00271 of 2022.

2. The petitioner was aggrieved of the order dated 16th February 2022 by which he was transferred from Signal and Telecommunication Unit (in short, S&T) to S&T Construction Department at Ranchi.

3. The petitioner set up a case before the Central Administrative Tribunal, Patna Bench (Circuit Bench, Ranchi) of illegal transfer by raising *inter alia* the following grounds: (i) the

order of transfer was contrary to the extant rules and (ii) without his consent the order dated 16th February 2022 which is in the nature of a deputation could not have been passed.

4. Mr. K. C. Mahto, the learned counsel for the petitioner submits that the petitioner who is a regular employee under S&T Unit could not have been sent to another division the functions of which are entirely different.

5. Briefly stated, the petitioner who was appointed as Trackman under South Eastern Railways on 8th August 1996 was promoted on various posts in the capacity of Junior Clerk, Senior Clerk and Office Superintendent in Lever-6. He remained posted at Ranchi under S&T (Open line) Unit since 2004 and on 16th February 2022 he was transferred to S&T Construction Unit.

6. Mr. Anil Kumar, the learned ASGI appearing for the Union of India draws our attention to the stand taken by the Railways that S&T Unit and S&T Construction both fall under the same Department.

7. The order dated 16th February 2022 which has been brought on record vide Annexure-3 indicates that the petitioner has been transferred within same Unit and his transfer is on the same capacity and grade with immediate effect – as recorded in the remarks column. These facts are not challenged by the petitioner and he has failed to demonstrate that the transfer order was issued in contravention of the extant rules. In course of the hearing, the learned counsel for the petitioner has submitted that the transfer order is an order of deputation for which consent of the petitioner is necessary. We are unable to accept this proposition. The order of transfer within the same Department shall not be an order of deputation because the term “deputation”, as understood in the legal parlance, would necessarily involve two different Departments. This is a well settled proposition in law that transfer is a necessary incident of service and no employee can claim posting on a particular position and at a particular place. The specific conditions in the order dated 16th February 2022 make it clear that the petitioner has been given a fair treatment

and, therefore, the aforesaid order which has been passed in the exigency of service cannot be taken exception to.

8. Having regard to the aforesaid facts and circumstances in the case, W.P.(S) No. 6464 of 2022 is dismissed.

(Shree Chandrashekhar, J.)

(Ratnaker Bhengra, J.)

Jharkhand High Court, Ranchi
Dated: 3rd January 2023
Amit/N.A.F.R