



WP No.25156 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P.B. BALAJI

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1.Sheeba
2.S.Vairamuthukumar
3.R.Dhakshinamurthi
4.M.Ashok
5.C.Haridassan
6.S.Balasubramanian
7.K.Uthrapathy
8.P.Soundraraja
9.T.R.Murugan
10.K.Allimuthu
11.M.Muthukumar
12.R.Shankar
13.M.Ganesh Kumar

... Petitioners

versus

1.The Registrar
Central Administrative Tribunal,
Madras Bench,
Madras High Court Campus,
Chennai -600 103.



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2.Union of India

Represented by the CEO & Chairman,
Railway Board,
Rail Bhawan,
New Delhi -110 001.

3.The General Manager,
Southern Railway,
Park Town,
Chennai -600003.

4.The Principal Chief Personnel Officer,
Southern Railway,
Park-Town,
Chennai-600 003.

5.Chief Track Engineer,
Southern Railway,
Park Town,
Chennai -600 003.

6.The Principal Chief Personnel Officer,
Central Railway,
N.A.Building, 5th Floor,
Churchgate, Mumbai -400 020.

7.The Principal Chief Personnel Officer,
Western Railway,
Old Building, 1st Floor,
Churchgate, Mumbai -400 020.

8.The Principal Chief Personnel Officer,
Eastern Railway,
No.3, Kaligat Street, Kolkatta - 700 001.

9.The Principal Chief Personnel Officer,
Northern Railway,
Baroda House, Kasturbha Gandhi Marg,
New Delhi-110 001.



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- 10.The Principal Chief Personnel Officer,
North East Frontier Railway,
Maligaon, Guwahati,
Assam -7810011.
- 11.The Principal Chief personnel Officer,
South Central Railway,
Rail Nilayam, Secundrabad,
Telengana State -500 071.
- 12.The Principal Chief Personnel Officer,
South Eastern Railway,
No.11, Garder Reach Road,
Kolkatta, West Bengal State-700 043.
- 13.The Principal Chief Personnel Officer,
East Central Railway,
Hajipur, Vishali, Bihar -844 101.
- 14.The Principal Chief Personnel Officer,
East Coast Railway,
Ecorsadan, Chandrasekharapur,
Bhubaneshwar, Odisha State-751 017.
- 15.The Principal Chief Personnel Officer,
North Central Railway,
Subedarganj, Allahabad,
Uttar Pradesh- 211 011.
- 16.The Principal Chief Personnel Officer,
North Western Railway,
Jawahar Circle, Jaipur, Rajasthan State,
Pin-302 017.
- 17.The Principal Chief Personnel Officer,
South East Central Railway,
New GM Building Bilaspur,
Chattisgarh, 495 004.



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18.The Principal Chief Personnel Officer,
South Western Railway,
Rail Soudha, Gadag Road,
Hubli, Karnataka State-580 020.

19.The Principal Chief Personnel Officer,
West Central Railway,
Jabalpur, Madhya Pradesh,
Pin-482 001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorarified Mandamus, to call for the records in respect of the impugned order passed in M.A.No.310/303/2023 in O.A.No.310/844/2022 by the first respondent Tribunal and quash the same and direct the fourth and fifth respondents to restore the status of the petitioners prior to the issuance of the impugned order dated 06.07.2023 in M.A.No.310/303/2023 in O.A.No.310/844/2022 till the disposal of the main O.A.No.310/844/2022 by the first respondent Tribunal.

For Petitioners	: Mr.K.Manickaraj
For Respondents	: Mr.K.Srinivasamurthy Senior Central Government Panel Counsel for respondent Nos.2 to 19

ORDER

(Order of the Court was made by *D.KRISHNAKUMAR, J.*)

This Writ Petition is filed before this Court challenging the order in M.A.No.310/303/2023 in O.A.No.310/844/2022 dated 06.07.2023, passed by the Central Administrative Tribunal, Chennai.



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Brief facts of the case:

2.1. The writ petitioners were selected to the post of Junior Engineer (JE), in Ultrasonic Flaw Detector cadre (USFD cadre), which is one of the cadre with sanctioned posts in Civil Engineering Department of Indian Railways but operated as Ex-cadre tenure basis. This JE/SSE of USFD cadre are operated as EX-cadre tenure basis in all 16 Zonal Railways of Indian Railways, and the recruitment rule making body is the Railway Board, under the Ministry of Railways. These petitioners were selected to the USFD cadre in Southern Railway prior to the year 1995 and the same is under the control of Southern Railway, for operational purpose and cadre maintenance.

2.2. According to the petitioners, they were selected by duly constituted selection committee to the post of JE/USFD-Ex-cadre for a period of 5 years and further extended for a period of 5 years by its circular E(NG)I-2000/PM5/14, dated 11.10.2000 (RBE No.177.2000). Suddenly the respondent Railway Board decided to merge the cadre of JE/SSE in USFD wing with P.Way Cadre of civil engineering department, as per Circular No.E(NG)I/2021/PM5/7 dated 07.03.2022, through this circular, the respondent board has given clear instructions to all the 16



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Zonal Railways its decision to merge the cadre of JE/SSE in USFD Wing and to regularize with JE/P.Way cadre of Civil Engineering Department.

2.3. According to the petitioners, the fourth respondent ought to have issued the merging order of JE/USFD Ex-cadre with JE/P.Way as done by other 15 Zonal Railways and should not have repatriated any incumbent working in JE/USFD, as both the cadres were merged with effect from 07.03.2022. But the fourth and fifth respondents herein had taken arbitrary decision to revert and repatriate the petitioners, existing incumbents in the JE/USFD cadre working on ex-cadre basis unlawfully. The fourth and fifth respondents have understood the merger order wrongly as the posts of JE/USFD only to be added with JE/P.Way cadre posts by dismantling the JE/USFD cadre, despite the similar type merging was ordered vide Railway Board order No.PC-III/2012/FE-II/2, dated 03.07.2013 and implemented by all Zonal Railways on en-block basis, consequently, the fourth and fifth respondents had implemented that merger. Challenging the aforesaid merging order dated 03.07.2013, the petitioners had filed OA.No.310/844/2022 before the Central Administrative Tribunal, to implement the merger order dated 07.03.2022 of the second



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respondent and not to repatriate the petitioners from the post of JE(USFD) to the parent cadre; as the JE (USFD) Cadre was merged with JE(P.Way) Cadre with effect from the date of issue of merger order dated 07.03.2022. The petitioners filed M.A.No.310/576/2022 and M.A.No.310/107/2022 along with O.A, not to repatriate the petitioners to the parent cadre. The Tribunal was not inclined to grant any interim relief in the said M.As and the same were pending for filing reply. Hence, the petitioners had filed a writ petition before this Court in W.P.No.10438 of 2023 on 10.02.2023, for interim stay for reversion and repatriation of the petitioners from JE/USFD post. In the meantime, on 12.04.2023, the Tribunal passed order in M.A.No.310/107/2022 by rejecting the prayer of interim order to maintain status-quo, stating that the writ petition was withdrawn by the petitioners on 24.04.2023. Thereafter, the petitioners have filed another M.A.No.310/270/2023 seeking directions to the respondents to keep in abeyance the order dated 24.04.2023, till the final order is made by the Tribunal. The Tribunal, by order dated 10.05.2023, had passed an ad-interim order in the said M.A. directing the respondents to maintain status quo, till filing of reply by the respondents, as per provision under Section 24 of the Central Administrative Tribunal Act



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1985, by issuing notice and granting sufficient time to the 18 official respondents for filing reply. The official respondents 4 and 5, without filing any reply, have filed M.A.No.310/303/2023 on 23.06.2023 to vacate the interim relief granted on 10.05.2023. The said miscellaneous petition was listed on 06.07.2023 for admission without listing the other M.As. and the main O.A. On 06.07.2023, the Tribunal had allowed the said M.A. by vacating the inteirm order dated 10.05.2023 granted in M.A.No.270/2023, without considering the submissions made by the petitioners. Against the said order, the petitioners have filed the present writ petition before this Court.

3. Learned counsel for the petitioners would submit that the Tribunal has passed order without providing an opportunity to the petitioners. Therefore, he seeks interim protection for the petitioners to continue in the same post till pending disposal of the O.A.

4. Learned counsel for the petitioners admitted that all the petitioners have joined in the reverted posts pursuant to the interim order is vacated by the Tribunal on 06.07.2023. However, now the petitioners pray a direction to the fourth and fifth respondents to



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restore the status of the petitioners, prior to the impugned order dated 06.07.2023.

5. Learned Standing counsel for the respondent strongly objected to the relief sought for in the writ petition. Learned Standing Counsel states that the petitioners also had filed an interim application M.A.No.310/576/2022 with an interim prayer along with main O.A.No.310/844/2022 and no interim order has been granted in the said M.A.No.310/576/2022 in O.A.No.310/844/2022 and the petitioners have then filed W.P.No.10438 of 2023 before this Court and the same has been dismissed by this Court by order dated 24.04.2023. Therefore, the said order of the Tribunal is perfect and does not warrants any interference, since petitioners have been already reverted to the parent post and the prayer, as sought for by the petitioners cannot be granted, the remedy for petitioners, is only to be decided on merits in the OA.

6. Considering the facts and circumstances of the case, we are of the view that the petitioners have already been reverted/repatriated to the parent posts pursuant to the order passed by the Central



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Administrative Tribunal dated 06.07.2023, in M.A.No.310/303/2023 in and by which the Tribunal has vacated the interim order of status quo, passed by it on 10.05.2023 and the writ petitioners were repatriated to the parent post. Hence, the request of the petitioners to grant anti status quo to the petitioners, is unacceptable and the same cannot be entertained. In view of the above facts, we are not inclined to accept the contention of the petitioners to interfere with the order of the Tribunal.

7. At this juncture, learned counsel for the petitioners seeks a direction to the Tribunal to dispose of O.A.No.310/844/2022 at the earliest. Considering the said request and taking into account all the aforesaid facts, the Central Administrative Tribunal shall consider and dispose of O.A.No.310/844/2022 on its own merits as early as possible within a period of three months from the date of receipt of a copy of this order.



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8. With the above observations/directions, the writ petition stands dismissed. There will be no order as to costs.

[D.K.K., J.] [P.B.B., J.]
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Index : Yes/No
Neutral Citation : Yes/No
mrn

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