

Court No. - 39

Case :- WRIT - A No. - 3068 of 2020

Petitioner :- Km. Noopur Srivastava

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

Counsel for Petitioner :- Jitendra Singh, Dilip Kumar Goswami, Prashant Agrawal

Counsel for Respondent :- Vivek Kumar Rai, Paras Nath Rai, Rajnish Kumar Rai, Sharad Ranjan Nigam, Vageesh Pandey

Hon'ble Saumitra Dayal Singh, J.

Hon'ble Shiv Shanker Prasad, J.

1. Heard Sri Pramendra Singh learned counsel holding brief of Sri Jitendra Singh learned counsel for the petitioner, Sri Paras Nath Rai learned counsel for the Railways and Sri Vageesh Pandey learned counsel for the private respondent.

2. At the outset, learned counsel for the respondents stated that the matter has been rendered infructuous. To test the correctness of the statement made, we have gone through the record.

3. Present writ petition is directed against the order dated 31.1.2020 passed by the Central Administrative Tribunal, Allahabad Bench, Allahabad in Original Application No. 330/00036/2020 (Km. Noopur Srivastava Vs. Union of India and Others). By that order, learned Tribunal entertained the Original Application but refused to grant interim protection in the context of transfer order of the petitioner from the office of General Manager, NCR, Allahabad to Jhansi Division.

4. Grievance of the petitioner was that though she had applied for mutual transfer alongwith respondent No. 5 for her transfer from Allahabad to Jhansi and for a corresponding transfer of respondent

No. 5 from Jhansi to Allahabad Division, vide her further communication dated 08.11.2019 she had withdrawn that consent. That withdrawal of consent was also described to have been approved by the Principal CCM on 15.11.2019. Yet mutual transfer order came to be issued by the General Manager (P), Allahabad on 01.1.2020. This gave rise to the cause of action to the petitioner. On that Original Application No. 330/00036/2020 was entertained but interim protection denied.

5. The petitioner approached this Court by means of present writ petition. On 27.2.2020, following order was passed:-

"1. It is contended by learned counsel for petitioner that petitioner had applied for mutual transfer, but before it could be ordered by the respondents-Authority, it was withdrawn. Still respondents proceeded further by ignoring withdrawal application and ordered mutual transfer and petitioner is being compelled now to join at Jhansi, which is wholly illegal and the Central Administrative Tribunal, Allahabad (hereinafter referred to as "Tribunal") has not examined this aspect in correct perspective and by passing impugned order, it has committed manifest error.

2. In our view, the matter requires consideration.

3. Learned counsel appearing for respondents 1 to 4 prays for and is allowed two weeks' time to file counter affidavit.

4. Respondent 5 is represented by Sri Sharad Ranjan Nigam, Advocate. He may also file counter affidavit within aforesaid period.

5. List after expiry of aforesaid period.

6. Until further orders of this Court, order of Tribunal dated 31.01.2020 passed in Original Application No. 330/00036/2020 (Kr. Noopur Srivastava v. Union of India and others) shall remain stayed."

6. Writ petition remained pending. In the meanwhile, on 13.7.2020 petitioner issued communication to the Senior Divisional Commercial Manager, Jhansi. It reads as below:-

*"To,
Senior Divisional Commercial Manager
Jhansi*

Date: 13.07.2020

Respected Sir,

It is most humbly submitted that as I was not allowed to join at PRYJ in compliance of Office Order No 56/2020 dt 02/06/2020 and as I was not getting salary due to which my financial condition had deteriorated I preferred an application dated 22/06/20 with affidavit dated 20/06/2020 narrating the circumstances and consented for joining even at Jhansi, considering which Office Order No 71/2020 dated 10/07/2020 has been issued, in compliance of which, I am reporting for joining at Jhansi as I am in a bad financial state and urgently require releasing my wages and I undertake to withdraw my Writ petition no 3068 of 2020

filed by me in High Court Allahabad."

7. She also appears to have furnished her personal affidavit before that authority around the same time. It reads as below:-

"Affidavit in front of DRM (Jhansi) North Central Railway

I Noopur Srivastava D/o Shri U.k khare solemnly affirm that I had filed a writ petition no 3068 of 2020 in high court of Judicature at Allahabad in my transfer case which is pending due to lockdown and as I am unable to join and not getting salary, I now don't want to Pursue the case and instead want to withdraw my writ petition no 3068 of 2020 in case administration is ready for my joining even at Jhansi which is the transferred place."

8. Insofar as the petitioner had given undertaking to withdraw the present writ petition though penurious circumstances, the present writ petition is **dismissed as withdrawn** with liberty to the petitioner to pursue her remedy before the Tribunal. That proceeding may be dealt with on merits, as expeditiously as possible, without being prejudiced by an observation made in this order and the communication dated 13.7.2020 written by the petitioner on her affidavit.

9. Interim order granted earlier is vacated.

Order Date :- 13.12.2023

Faraz

(Shiv Shanker Prasad, J.) (S. D. Singh, J.)