

W.P.C.T. 91 of 2024

**Samresh Kashyap & Ors.
Vs.
Union of India & Ors.**

Mr. Asim Kr. Niyogi,
Mr. Vaskar Pal

...for the Petitioners

Mr. Kaushik Dey,
Mr. Tapan Bhanja

...for the Respondents

1. The petitioners approached the Central Administrative Tribunal, Kolkata Bench (hereinafter referred to as 'the C.A.T.') in the following facts and circumstances:-

(i) They were assigned duty in a train going from Katihar to Siliguri. The train no.15484 arrived at Siliguri when a checking of the train was done by the Vigilance Inspector at Siliguri Junction. The petitioners who had been assigned duty in the train were found absent. They were thus marked as absent. It is the claim of the petitioners that they were forced by the circumstances to leave the train as one of them had become seriously ill and therefore, the others had gone to help him in reaching the hospital and availing treatment at Siliguri. When they returned it is their allegation that they

were prevented from joining. The respondents on the other hand contend that once they had been marked absent, they were required to come and submit their joining before the competent authority which they have not done.

(ii) They have subsequently been transferred on 01.05.2023, which order also they have challenged in the same O.A.

(iii) They were also proceeded against by a charge memo dated 21.03.2023.

2. Seeking the multiple reliefs, the petitioners have approached the C.A.T. seeking a direction upon the respondent authorities to allow the petitioners to perform duty, to release regular salary from the month of February till date, and to set aside the transfer orders. They have also sought relief of quashing of the departmental proceedings and sought directions upon the respondents to withdraw the transfer orders.
3. In view of the petitioners' invoking the jurisdiction of the C.A.T. for multiple reliefs, the respondents raised an objection regarding maintainability of such an application in view of the provisions contained in Section 10 of the Administrative Tribunals Act. The C.A.T. proceeded to consider the entire issue. After consideration of the entire

issue, the Original Application bearing O.A. No. 1150 of 2023 has been disposed of by the C.A.T.

4. While disposing of the Original Application, the C.A.T. has not allowed the claim of the petitioners for salary for the period from 09.05.2023 till 05.10.2023. It is this part of the order passed by the C.A.T. by which the petitioners are aggrieved.
5. According to the learned counsel for the petitioners, the petitioners had earlier filed another Original Application bearing O.A. No. 605 of 2023 assailing the transfer order dated 01.05.2023. The petitioners sought liberty in the earlier O.A. to prefer a detail comprehensive representation before the authorities against the transfer order. They further sought a direction by the C.A.T. that the transfer order be kept in abeyance till such time the authorities decide the petitioners' claim. The C.A.T. considering the petitioners' submissions in the earlier O.A. No. 605 of 2023 disposed of the same by order dated 11.05.2023 allowing the petitioners' claim for representing their case before competent authority.
6. Insofar as their prayer regarding keeping of the transfer order in abeyance, the C.A.T. was of the view that ***"in the event no relieving order has***

been passed as on date, the Transfer Order dated 01.05.2023 shall be kept in abeyance.”

7. The learned counsel for the petitioners submits that in view of this interim order and there being no valid relieving order issued by the authorities. The petitioners were under the *bona fide* belief that the transfer order was in abeyance and therefore, they had not joined their duties. They have further contended on 05.10.2023 that an interim order was passed in the subsequent O.A. (O.A. No. 1150 of 2023), which is the subject matter of the present proceedings. In view of the interim order dated 05.10.2023 also passed in the subsequent O.A., they were not required to join their transferred place of posting after 05.10.2023.
8. The learned counsel for the respondent railway has pointed out from the records of the proceedings before the C.A.T. that the orders relieving the petitioners from Katihar, had been issued on 09.05.2023, i.e. two days prior to the conditional interim order passed in O.A. No. 605 of 2023, on 11.05.2023, relevant extract quoted above.
9. The legitimacy and validity of this relieving order is seriously contested and disputed by the learned counsel for the petitioners.

10. Be that as it may, it is apparent from a bare perusal of the orders dated 09.05.2023 communicated to the petitioners, which were Annexure-R/3 to the reply filed by the respondents before the C.A.T., that relieving orders had been issued two days prior to 11.05.2023. It is not the case of the petitioners that after coming to know regarding issuance of such relieving order dated 09.05.2023 they had joined their transferred place of posting; or that they had worked till passing of the subsequent interim order on 05.10.2023 in O.A. No. 1150 of 2023.
11. Under such circumstances, we find no infirmity in the order of the C.A.T. dated 01.02.2024, assailed in the present proceedings insofar as it has not directed for payment of salary for the period from 09.05.2023 till 05.10.2023, treating this period as period of absence.
12. We find no reason to interfere with the order dated 01.02.2024 passed by the C.A.T. in O.A. No. 1150 of 2023.
13. The Writ Petition is accordingly dismissed.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)