

**Central Administrative Tribunal  
Ernakulam Bench**

**O.A No.180/00657/2020**

Thursday, this the 25<sup>th</sup> day of February, 2021

**CORAM:**

**Hon'ble Mr. P.Madhavan, Judicial Member**

**Hon'ble Mr.K.V.Eapen, Administrative Member**

Prasanth K.V, aged 32 years

S/o.Vijayan, Presently working as

Track Maintainer IV, O/o Senior Section Engineer

(P.Way), Mangalore, Palghat Division, Southern Railway

residing at Kattoor House, P.O.ADAT

\Trichur - 05

- Applicant

(By Advocate: M/s.Varkey & Martin)

Versus

1. The General Manager, Southern Railway  
Park Town P.O, Chennai – 600 003

2. The Senior Divisional Engineer (Co-ordination)  
Southern Railway, Palghat Division  
Palghat – 678 002

3. The Senior Divisional Personnel Officer  
Southern Railway, Palghat Division  
Palghat – 678 002

- Respondents

(By Advocate: Mr.V.A.Shaji,ACGSC)

The O.A having been heard on 25<sup>th</sup> February, 2021, this Tribunal delivered the following order on the same day:

**ORDER (ORAL)**

**K.V.Eapen, Administrative Member**

The applicant is working as Tracks Maintainer IV at Mangalore under Palghat Division of Southern Railway. Applicant is a native of Trichur and his family

consists of widowed aged mother. To look after his aged widowed mother, the applicant had sought for a depot transfer to Shoranur on bottom seniority. His request has been allowed on 17.3.2020 by the 3<sup>rd</sup> respondent by Annexure A-1 order with the approval of the competent authority. Though the transfer order is dated 17.3.2020, the applicant has not been relieved so far. He is aggrieved by the inaction on the part of the respondents to relieve him to join at Shoranur . The applicant has filed this O.A seeking the following reliefs:

*“I) Direct the respondents to relieve the applicant forthwith so as to enable the applicant to carry out the transfer to Shoranur as was ordered by Annexure A1 order.*

*II) Direct the respondents to assign seniority to the applicant at the newly transferred unit at Shoranur with effect from 17.3.2020, the date on which the Annexure A1 order was issued with all consequential benefits.*

*III) Award costs of and incidental to this application*

*IV) Grant such other relief, which this Honourable Tribunal may deem fit and proper in the circumstances of the case.”*

2. Respondents have filed a detailed reply statement. In their statement, they have indicated that though the applicant is working under the administrative control of the Senior Section Engineer (Permanent Way) Mangalore, he is actually working under the control of Senior Section Engineer (Permanent way) Kasaragod. The transfer order of 44 Track Maintainers including the applicant was issued on 17.3.2020, but it was kept in abeyance due to the outbreak of Covid 19 Pandemic and restrictions imposed by Government of Kerala on vehicular traffic. Meanwhile, the Palghat Division has anticipated arrival of huge number of Track Maintainers from other Divisions of Southern Railway (approximately 367 nos) viz; Salem Division, Tiruchirappilly Division and Madurai Division on Inter Divisional Transfer, which has already been approved by the competent authority. However,

the transfer order in question was approved by the competent authority anticipating the arrival of Track maintainers from other Divisions as stated above with a view to fill up vacancies of Track Maintainers in Mangalore and Kasaragod p.way section. Unfortunately, the Track Maintainers on Inter Divisional Transfer from other Divisions have not been relieved from their respective Divisions so far, due to the outbreak of Covid 19 Pandemic. Track Maintainers who are under orders of transfers to other Depots are normally being relieved after getting reliever in their place thereby to ensure the safety of track and travelling public. Therefore, the applicant will be relieved immediately after the absorption of Track Maintainers from other division, which is awaited.

3. As regards the seniority, it is submitted that as per the extant rules, Track Maintainers transferred from one depot to another depot will be placed at the bottom most seniority. The Track Maintainers who are under orders of transfer to another depot are being relieved after getting reliever in their place either from other Division or from other depot, in order to ensure safety of track and travelling public. Had the applicant been relieved without getting reliever in his place, the possibility of his absence adversely affecting safety of track could not have been ruled out. Hence the Senior Section Engineer/P.Way/Kasargod under whose control the applicant is working as Track Maintainer has not relieved him. However, the Senior Section Engineer/P.Way/Mangalore under whose control the applicant's junior Sri.Vinayakumar was working and whose name figures at serial no.22 (below the applicant) has relieved him as it was found manageable to do so.

4. In the rejoinder, counsel for the applicant has stated that many of the juniors included in Annexure A1 and transferred along with the applicant have been

relieved. These juniors of the applicant figure at serial no.22 (Shri.Vinayakumar.T.V),24,26,27,28,31,42 and 44. The applicant submits that it is not true that the transfers were issued by the competent authority duly anticipating the arrival of Track Maintainers from other Divisions. The transfer order does not indicate any such condition and most of them have since already been relieved. In these circumstances, the contentions of respondents is to be rejected. The contention that the applicant will be relieved only after absorption of Track Maintainers from other Divisions is not genuine, as the respondents have been saying this for almost the one year. It is submitted that the first respondent viz; the General Manager, Southern Railway, Chennai can take steps to relieve Track Maintainers working in other Divisions to fill up the shortfall and overcome the grave situation which is said to be prevalent in Palghat Division. It is submitted that the first respondent viz; General Manager is the administrative head of all the Divisions from which the Palghat Division is awaiting the flow of Track Maintainers to tide over the difficulties said to have been faced by them. The applicant also submits that the Track Maintainers transferred from one depot to another depot will be placed at the bottom most seniority. He will be forced to join at Shoranur after his juniors who have already joined and therefore he will loose seniority. This will cause substantial prejudice to him. It is submitted that the applicant is entitled to have his seniority restored with regard to his juniors who happen to join Shoranur Section earlier than the applicant.

5. We have heard learned counsel for the applicant Adv.Shri.Martin G.Thottan and learned counsel for the respondents Adv.Shri.V.A.Shaji.

6. Learned counsel for the applicant has brought to our notice the decision of

this Tribunal in O.A No.1040/2017 wherein a similarly situated applicant who was aggrieved by failure of the respondents in relieving him on an inter divisional transfer on the ground that there was a huge vacancy of Track Maintainers in Palghat Division and therefore he could not be relieved, was finally allowed to be relieved by orders of this Tribunal. The orders of the Hon'ble High Court in OP(CAT) 3124/2013 agreeing with the decision of the Tribunal in a similar matter is also mentioned as part of the orders in O.A 1040/2017.

7. After hearing both sides, we do not find any clear reason provided as to why the respondents have retained the applicant specifically at his previous place of posting which is said to be under the control of Senior Section Engineer (Permanent Way) Kasaragod, though under the ostensible administrative control of Senior Section Engineer (Permanent Way) Mangalore. This is particularly not correct or appropriate in view of the fact that many of his juniors at Mangalore have since been relieved and some may have already joined at Shoranur. The contention that they are awaiting arrival of Track Maintainers from other Divisions is not acceptable, as it is stated that there are a large number of employees who have already been relieved during this period, even as the Covid 19 Pandemic is continuing. In any case, we are in agreement with applicant's contention that Respondent no.1 i.e, the General Manager, Southern Railway, Chennai has full power to order immediate deployment of Track Maintainers from other Divisions to Palghat Division whenever required, especially as Inter Divisional Transfer from these Divisions like Salem, Tiruchirappally and Madurai to Palghat has already been approved. Therefore, taking into account all aspects including ensuring of safety of traffic and travelling public, we order in this case that the concerned authorities shall ensure that the applicant is relieved from his present place of

posting at Kasaragod/Mangalore to join at Shornur in fulfillment of Annexure A-1 transfer order. This may be carried out within a period of one month from the date of issue of this order. Though, it appears that the question of seniority as prayed for at relief no.2 will still remain after this, we are leaving it open at the stage for Department to consider taking into account all aspects.

8. The Original Application is disposed of as above. No costs.

**(K.V.Eapen)**  
**Administrative Member**

**(P.Madhavan)**  
**Judicial Member**

**List of Annexures**

Annexure A1 - A true extracted copy of the transfer order No.J/P.677/IX/Request Transfer/Vol.IV dated 17.3.2020 .

...