

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 180/00259/2021

Thursday, this the 9th day of September, 2021

CORAM:

Hon'ble Mr. P. Madhavan, Judicial Member
Hon'ble Mr. K.V. Eapen, Administrative Member

1. Ajith.S, s/o G.Sreedharan, aged 32 years
Loco Pilot (Shunting), Office of the Chief
Crew Controller, Erode, Salem Division
Southern Railway, residing at Sreemandiram,
Kolannoor, Irumpanganadu.P.O, Ezhukone-691505,
Mobile No. 7907658580.
2. Deepu A, s/o Arumugham Achari, aged 36 years
Loco Pilot (Shunting), Office of the Chief Crew
Controller, Erode, Salem Division, Southern Railway
Residing at V Radha Nivas, Kottaram Nagar 110
Kottakkakom Kollam -691013, Mobile No. 9400761516.
3. Syam Das M, s/o Mohan Das M aged 33 years
Loco Pilot (Goods), Office of the Chief Crew
Controller, Erode, Salem Division, Southern
Railway, Residing at Syam Bhavan, Perumbuzha,
Kollam 691504, Mob. 8848499227.
4. Anand L S, s/o V Sundaran Nadar, aged about 35 years
Loco Pilot (Goods), Office of the Chief Crew Controller,
Erode, Salem Division, Southern Railway
Residing at L.S. Bhavan, Pottakuzhi, Plamootukada P.O.,
Trivandrum-695122, Mobile No. 8907227615.
5. R. Devakumar, s/o B Reghu (Late), aged about 30 years
Loco Pilot (Shunting-II), Office of the Chief Crew Controller,
Erode, Salem Division, Southern Railway
Residing at Ejithalayam, Thottinuvadakku, Chavara P.O
Kollam-691503, Mobile No. 8754632499.
6. Arun Kumar A V, s/o G Asokan, aged about 34 years
Loco Pilot (Goods), Office of the Chief Crew Controller,
Erode, Salem Division, Southern Railway
Residing at Ajith Bhavan, Kattela, Sreekariyam, Trivandrum 695017.
Mobile No. 8907666915.

7. M.Arun, s/o E.B.Madhusudhan, aged about 35 years
Loco Pilot (Goods), Office of the Chief Crew Controller,
Erode, Salem Division, Southern Railway
Residing at Arunnivas, Thalachira, Eram PO
Pathanamthitta-689664, Mobile No. 9035611532.
8. Sreenivas Bhatt A, s/o D N Anantheswara Bhatt, aged
about 36 years Loco Pilot (Goods), Office of the Chief
Crew Controller, Erode, Salem Division, Southern
Railway, Residing at Devasuam Parambil, Cherai,
Ernakulam- 683514, Mobile No. 9795205342.
9. Robin Mini L, s/o Mini, aged about 31 years
Loco Pilot (Shunting- 11), Office of the Chief Crew Controller,
Erode, Salem Division, Southern Railway
Residing at 140, Padarnilam, Manavalakurichi Post
Kanyakumari — 629252, Mobile No. 7559899957.
10. O. Sasikumar, s/o Omanakuttan, aged about 35 years
Loco Pilot (Goods), Office of the Chief Crew Controller,
Erode, Salem Division, Southern Railway,
Residing at Sivamandiram, Padaharam,
Thakazhy . P. O,Alappuzha -688562, Mobile No. 8075746292.
11. Sarath T , s/o Thyagarajan, aged about 33 years
Loco Pilot (Shunting), Office of the Chief Crew Controller,
Erode, Salem. Division, Southern Railway
Residing at Edayilathundil Vadakkathil , Pampalil Perinad P.O,
Kollam- 691601, Mobile No. 9567339799.
12. Sreejith T S , s/o Sreedharan, aged about 33 years
Loco Pilot (Shunting), Office of the Chief Crew Controller,
Erode, Salem Division, Southern Railway
Residing at Kizhakkethottathil (H) Perumthuruthu, P.O Kallara
Kottayam- 686611, Mobile No. 8592900010.
13. S.R Sunilkumar, s/o G.Sasidharan Nair, aged about 35 years
Loco Pilot (Goods), Office of the Chief Crew Controller,
Erode, Salem Division, Southern Railway
Residing at Parappotta Veedu Elampa P.O, Attingal
Trivandrum 695103, Mobile No. 9847031515.
14. Sudhikumar T, s/o Thulaseedharan V, aged about 36 years
Loco Pilot (Goods), Office of the Chief Crew Controller,
Erode, Salem Division, Southern Railway
Residing at Nilakkal Thekkathil, Manappally North, PO
Kollam 690574, Mobile No. 9061230515.

15. Rahul Dev. D, s/o Devadasan.N, aged about 32 years
Senior Assistant Loco Pilot, Office of the Chief Crew Controller,
Erode, Salem Division, Southern Railway
Residing at Rahul Sadanarn, TC 76/2155(2),
Anayara P.O Trivandrum 695029, Mobile No. 9847063736.
16. Manoj K, s/o Kanakappan, aged about 33 years
Senior Assistant Loco Pilot, Office of the Chief Crew Controller,
Erode, Salem Division, Southern Railway
Residing at Manoj Bhavan, Punnivilakam,
Thekkevila, Kaniyapuram 695301, Mobile No. 9633355447.
17. Harikrishnan A, s/o Anilkumar N, aged about 32 years,
Senior Assistant Loco Pilot, Office of the Chief Crew Controller,
Erode, Salem Division, Southern Railway
Residing at Avittom, Thrikkovilvattom North Mukhathala P.O
Kollam – 691577, Mobile No. 8951508456.
18. Vishnu.S, s/o S.R.Sreekumar, aged about 31 years
Senior Assistant Loco Pilot, Office of the Chief Crew Controller,
Erode, Salem Division, Southern Railway
Residing at Gokulam,Near S.N.M Library Kulathoor P.O
Trivandrum- 695583, Mobile No. 9891446303.
19. Sajeer R, s/o Saidu Muhammed, aged about 32 years
Senior Assistant Loco Pilot, Office of the Chief Crew Controller,
Erode, Salem Division, Southern Railway
Residing at Velikettil, S M Colony Punnapra Alappuzha- 688563,
Mobile No. 8075746292.
20. Ayyoob A, s/o Abdul Salam M H, aged about 30 years
Senior Assistant Loco Pilot, Office of the Chief Crew Controller,
Erode, Salem Division, Southern Railway
Residing at Ayyoob Manzil, Chandanathope
P O, Kollam- 691014, Mobile No. 9795205342. **Applicants**

(By Advocate - Mr. Harikumar G. Nair)

Vs.

1. Union of India, Represented by its Secretary Ministry
of Railways, "Rail Bhavan" New Delhi-110 001
2. The General Manager, Southern Railway
Headquarters Office, Park Town P.O,Chennai -660 003.
3. The Principal Chief Personnel Officer,Southern
Railway, Head Quarters Office,Park Town P.O.,
Chennai — 600 003.
4. The Senior Divisional Personnel Officer, Southern
Railway, Salem Division, Salem — 636 005.

5. The Senior Divisional Personnel Officer
 Southern Railway, Trivandrum Division,
 Trivandrum - 695 584. **Respondents**

(By Advocate - Mr. Sunil Jacob Jose)

The O.A having been heard on 29.07.2021 through video conferencing, this Tribunal delivered the following order on 09.09.2021:

ORDER

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

This is an Original Application filed by the applicants seeking the following reliefs:

“1. *To call for records leading to Annexure A-3 and quash and set aside the same as illegal, unlawful arbitrary and without jurisdiction;*

2. *Direct the respondents to consider, transfer and relieve applicants to Thiruvananthapuram Division against DR quota vacancies of Asst. Loco Pilots forthwith, with all consequential benefits including benefit of seniority from the date of Annexure A3 order; and*

3. *To grant such other relief as this Hon'ble Tribunal may deem fit to grant.”*

2. The applicants' case is that they were appointed as Assistant Loco Pilots in Salem Division of Southern Railway on the basis of a selection conducted by the Railway Recruitment Board. They joined Salem Division in the years 2013 to 2015 and have completed their training. Thereafter they were promoted as Senior Assistant Loco Pilots in Salem Division. Some of the applicants were further promoted as Loco Pilots and were working as Loco Pilot (Goods) in Erode/Salem Division. Immediately on entering the service, all the applicants had registered for inter-divisional transfer to Trivandrum Division of Southern Railway against direct recruitment quota vacancies. On the basis of the requests from various Divisions for inter-divisional transfer, a common list is prepared and maintained at Trivandrum

Division on the basis of the date of registration. The applicants Nos. 1 to 7 in this case are the next persons due in the above list for transfer on inter-divisional basis. They happened to be appointed in Salem Division as there were no vacancies in Trivandrum Division. According to the applicants, recently the respondent No. 3 had issued an order dated 30.11.2020 changing the percentage of vacancies to be filled up by direct recruitment and through inter-divisional transfer. As per Annexure A3, 75% of the vacancies have to be filled up by direct recruitment and 25% of the vacancies have to be filled up through inter-divisional transfer. It was also mentioned therein that a minimum of 5 years service is required to register for inter-divisional transfer. The applicants' would contend that respondent No. 3 has no authority to issue such an order and revise the transfer policy and they seek to set aside the said Annexure A3 order. According to them Annexure A3 is arbitrary, illegal and cannot be sustained in the eye of law. They have also sought for a direction to relieve the applicants for joining at Trivandrum Division against the direct recruitment vacancies.

3. When the matter came up for consideration the learned counsel for the respondents opposed the OA stating that all the applicants in this OA are working in Salem Division and the applicants ought to have approached the Madras Bench of the Tribunal for the reliefs. They had also filed a brief statement. According to them Annexure A3 order was issued from the Headquarters of the Southern Railway at Chennai and the OA is filed challenging Annexure A3 order. The applicants 1 to 20 are working at the office of the Chief Crew Controller, Southern Railway, Erode, Salem

Division, Tamil Nadu which comes under the territorial jurisdiction of the Madras Bench of the Tribunal. Even the contesting respondents Nos. 2 to 4 are also situated within the territorial jurisdiction of the Madras Bench of the Tribunal. They have relied upon the provisions contained in Rule 6 of the Central Administrative Tribunal (Procedure) Rules, 1987. So there is no jurisdiction for this Bench of the Tribunal to adjudicate the matter.

4. The counsel for the applicants also filed a written submissions asserting his contentions in the OA. The applicants had preferred the inter-divisional transfer application immediately after joining the Salem Division. The applicants Nos. 1 to 7 are the next persons to be considered for inter-divisional transfer and Annexure A3 order was issued without any authority. Annexure A3 order was issued to fill up majority of vacancies by direct recruitment. Annexure A8 is an order of Trivandrum Division appointing new Loco Pilots on 15.6.2021. It is also against the claim of the applicants.

5. On a careful perusal of the pleadings and hearing the various submissions of the parties, we find that the applicants are at present working at Erode in Salem Division. Rule 6 of CAT (Procedure) Rules, 1987 reads thus:

“6. *Place of filing applications.* –

(1) An application shall ordinarily be filed by an application with the Registrar of the Bench within whose jurisdiction.

(i) the applicant is posted for the time being, or

*(ii) the cause of action, wholly or in part, has arisen:
Provided that with the leave of the Chairman the application may be filed with the Registrar of the Principal Bench and subject to the orders under section 25, such application shall be heard and disposed of by the Bench which has jurisdiction over the matter.*

(2) *Notwithstanding anything contained in sub-rule (1) persons who have ceased to be in service by reason of retirement, dismissal or termination of service may at his option file an application with the Registrar of the Bench within whose jurisdiction such person is ordinarily residing at the time of filing of the application.”*

As per Rule 6 of the CAT (Procedure) Rules, 1987, an applicant has to approach the Tribunal within whose jurisdiction he is working. Here the applicants are working at Salem Division and the impugned order at Annexure A3 was issued from the Headquarters of the Southern Railway at Chennai. If the applicants are really aggrieved of the order issued at Annexure A3 they ought to have filed the Original Application before the Madras Bench of the Tribunal. This Tribunal has no jurisdiction over Erode or Salem Division. So there is merit in the contention put forward by the respondents in this matter. The applicants' ought to have approached the Madras Bench of the Tribunal for seeking the relief.

6. In view of the above we hereby direct the Registry to return the Original Application to the applicants for filing before the appropriate Bench of the Tribunal within whose jurisdiction the matter comes, keeping a copy of the same for our record purpose.

7. OA is disposed of as above. No order as to costs.

(K.V. EAPEN)
ADMINISTRATIVE MEMBER

(P. MADHAVAN)
JUDICIAL MEMBER

“SA”

Original Application No. 180/00259/2021**APPLICANTS' ANNEXURES**

Annexure A1 – A true copy of list of employees registered for IDT from Salem to TVC as on 15.10.2020.

Annexure A2 – A true copy of judgment dated 17.02.2012 in O.A No. 902/2010 and connected cases of this Hon'ble Tribunal.

Annexure A3 – A true copy of the Letter No. P(S)676/VI/JSO/2020 dated 30.11.2020, issued by the 3rd respondent.

Annexure A4 – A true copy of order No. SA/05/2020/Ele/Running dated 10.01.2020.

Annexure A5 – A true copy office order No.P(S)563/VI/ALP/Vol IX dated 09.12.2019.

Annexure A6 – A true copy of representation dated 04.12.2020 submitted by applicants.

Annexure A7 – A true copy of list of registration for inter divisional transfer of ALPs to Trivandrum maintained by the Trivandrum Division.

Annexure A8 – A true copy of Office Order No. 24/2021/ELEC(OP) dated 15.06.2021.

RESPONDENTS' ANNEXURES

Annexure R1 – True copy of order in OA No.577/2012 issued by this Hon'ble Tribunal.

Annexure R2 – True copy of order in OA No.697/2013 issued by this Hon'ble Tribunal.

Annexure R3 – True copy of order in OA No.1116/2012 issued by this Hon'ble Tribunal.