

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO.417/2002

Wednesday this the 26th day of June, 2002

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

Abdul Razak.M.
(Executive Engineer on transfer)
Shibras, T.C.No.15/1647,
Menjin Road,
Thiruvananthapuram.14.Applicant

(By Advocate Mr. R. Krishnaraj)

V.

1. Chief Administrative Officer,
Office of the Chief Administrative Officer,
Construction Branch, Southern Railway,
Egmore, Chennai.8.
2. Chief Engineer (Construction)
Office of the Chief Engineer (Construction)
Southern Railway,
Thiruvananthapuram.
3. Union of India, rep. by Secretary
to the Govt. of India,
Ministry of Railway,
Rail Bhawan, New Delhi.Respondents

(By Advocate Mr.P.Haridas (R.1&2))

The application having been heard on 26.6.2002, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant, who is Executive Engineer in the Office of the Chief Engineer (Construction) Southern Railway, Trivandrum has filed this application impugning the order dated 5.6.2002 by which he has been transferred and posted as Executive Engineer (Construction) under the control of the Deputy Chief Engineer (Construction) Cannanore, posting Shri C.K.Varghese in his place. It is

alleged in the application that the applicant who has unblemished record of service and has got only ten months to reach the age of superannuation has been transferred unjustifiably at the behest of the second respondent by the first respondent. The reason for the second respondent to request the first respondent to transfer the applicant according to the applicant is that when the second respondent made a proposal to utilise the funds allotted for one particular work for carrying out another work without tender the applicant objected to the proposal and therefore, the second respondent has enmity against him. It is also alleged that the applicant who is suffering from an injury and has peripheral vascular diseases would be put to hardship if the impugned order is implemented. The applicant, therefore, seeks to set aside the impugned order.

2. When the application came up for hearing on 13.6.2002 the standing counsel for the Railways Shri Haridas took time to get instructions and to make submission regarding admission and interim relief prayed for.

3. Today when the matter came up for hearing on admission and interim relief, Shri Haridas submitted that the transfer of the applicant was made on extreme administrative exigency. He further submitted that, the Vigilance had made a complaint against the applicant and that it was felt not desirable to retain the applicant at Trivandrum where the applicant's son is one of the Railway Contractors. He also produced for my perusal the file which

✓

disclosed that the first respondent on consideration of the details of the case decided that it was not desirable to retain the applicant at Trivandrum.

4. I have heard Shri Krishnaraj, learned counsel of the applicant. Shri Krishnaraj submitted that it is only for the purpose of facilitating the irregularity of transfer of fund and execution of work without tender that the second respondent wanted the applicant to be out of Trivandrum and that the transfer has been made malafide. The applicant has not impleaded the second respondent in his individual capacity so as to call upon the second respondent to file an affidavit refuting the allegations. The first respondent is said to be the seniormost Deputy General Manager in Southern Railway under the General Manager. The first respondent is not an officer under the second respondent so as to act at his behest. Since the transfer of the applicant is stated to be on administrative grounds by the learned counsel of the respondents under instructions from the respondents and as the notings in the file reveal that a decision has been taken to transfer the applicant on administrative grounds, I am of the considered view that judicial intervention is not called for.

3. In the result, the Original Application is rejected under Section 19(3) of the Administrative Tribunals Act.

Dated the 26th day of June, 2002


A.V. HARIDASAN
VICE CHAIRMAN

- 4 -
A P P E N D I X

Applicant's Annexures:

1. A-1: Copy of the Medical Record
2. A-1(a): Copy of the Medical Record 13.3.2000.
3. A-1(b): Copy of the Medical Record 6.8.1998.
4. A-1(c): Copy of the Medical Record
5. A-1(d): Copy of the Medical Record
6. A-1(e): Copy of the Medical Record
7. A-1(f): Copy of the Medical Record
8. A-1(g): Copy of the Medical Record 16.5.2001.
9. A-1(h): Copy of the Medical Record 7.6.2002.
10. A-1(i): Copy of the Medical Record 22.4.2002.
11. A-1(j): Copy of the Medical Record
12. A-1(k): Copy of the Medical Record 13.3.2000.
13. A-1(l): Copy of the Medical Record 23.2.2002
14. A-1(m): Copy of the Medical Record Nil
15. A-1(n): Copy of the Medical Record 4.3.2002
16. A-2: Copy of the Order No.24/GAZ/2000 24.8.2000
17. A-3: Copy of the Order No.38/2000/GAZ 18.12.2000
18. A-4: Copy of the Transfer Order No.17/2002/GAZ
5.6.2002.

npp
1.7.02