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CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO.434/2012

Dated this the 21st day of November, 2012

C O R A M

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

K.V.Jayakumar, S/o M Anandan, Chief Train Clerk
Mangalore Junction, (Erstwhile Kanganadi)
Suthern Railway, Mangalore.

Applicant

(By Advocate Mr. U.Balagangadharan)

Vs

- 1 The Sr.Divisional Personnel Officer, Southern Rly,
Palakkad Railway Division, Palakkad - 678001.
- 2 The Addition Divisional Railway Manager, Sourthern Rly,
Palakkad Railway Division, Palakkad - 678001.
- 3 The Sr.Divisional Operating Manager, Southern Railway,
Palakkad Railway Division, Palakkad - 678001.
- 4 Station Manager, Mangalore Junction, Sourthern Railway
Palakkad Railway Division, Mangalore - 575001.
- 5 U.Abdul Ali, Chief Train Clerk, Southern Railway,
Calicut Railway Station, Calicut - 673001.
- 6 K.P.Sooryanarayanan, Chief Train Clerk, Southern Railway,
Shoranur Railway Station, Shoranur - 679121.
- 7 S.Dinesh Babu, Chief Train Clerk, Southern Railway,
Shoranur Railway Station, Shoranur - 679121.

Respondents

(By Advocate Mr.V.V.Joshi, for R1-4)

The Application having been heard on 21.11.2012 the Tribunal delivered the following:

ORDERHON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

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The applicant, a Chief Train Clerk, presently working at Mangalore Junction under the respondents, is challenging Annexure A-4 order transferring the private respondents in preference to him to Calicut/Shoranur Railway Station under the transfer guidelines.

2 The applicant joined service as Train Clerk on 2.3.1987. Thereafter he was promoted as Senior Clerk in the year 1989 and Head Train Clerk in 1992, He was further promoted as Chief Train Clerk from February 2000 and posted at Kannur. He averred that though he belongs to Kannur he is permanently settled at Calicut. His wife is working as Senior Tuberculosis Lab Supervisor at Balussery, Calicut under the Govt of Kerala. His children are studying in Calicut and his ailing mother is living with him and looked after by his wife. During the general transfer period the applicant submitted his request to the authorities seeking transfer to Calicut, Shoranur and Mangalore as his choice stations. On 5.10.2007, the applicant was transferred to Mangalore Junction on administrative grounds and he is continuing there. Eversince he was anxiously waiting for his transfer to Calicut, which was his first preference, among the 3 stations of choice. It is submitted that the 1st respondent drew a seniority list of Staff of Train Clerks in PB2 and PB1, where the applicant is placed at Sl.No.7. He alleged that the R-5 placed at Sl.No.9, R-6 placed at Sl.No.10 and R-7 placed at Sl.No.13 were transferred to Calicut/Shoranur ignoring his seniority and request for a choice station transfer. He submitted his latest representation dated 1.3.2012 seeking for transfer to Calicut/Kannur/Shoranur. He further alleged that by totally ignoring his request the respondents have chosen to transfer him to Mangalore Town to his prejudice. He addressed a representation Annx.A5 to R-2 on 18.3.2012 which did not yield any response.

3 The official respondents in their reply statement submitted that



the applicant had opted for transfer to Mangalore, Shornur and Calicut on 4.8.2003. The applicant was transferred to Mangalore Junction by Annx.R1 on administrative grounds. It is stated that in Annx.R1, para 3, it is specified that a request can be cancelled at any time and such cancellation is not permissible once transfer order has been issued. The applicant has not cancelled his registration to Mangalore till this time. They have controverted the contention of the applicant that on his transfer to Mangalore Junction his request to Calicut and Shornur alone stands good. They further denied that the seniority position in Annx.A2 is not a criterion for ordering request transfers.

4 I have heard learned counsel for the parties and perused the records.

5 The undisputed fact is that the applicant has submitted his request to the authorities seeking transfer to Calicut, Shoranur and Mangalore as his choice stations. It is also not disputed that his spouse is a Govt of Kerala employee and posted at Calicut. After registration of his name for transfer to Calicut, Shornur and Mangalore on 4.8.2003, he was transferred to Mangalore Junction by Annx.R1 on administrative grounds. As per the seniority list of Staff of Train Clerks in PB2, PB1, the applicant is placed at Sl.No.7 and the private respondents R-5 to R-7 are juniors to him in the seniority list.

6 As per the general terms and conditions of transfer policy as far as possible the employee whose spouse is in Central/State Govt. And Autonomous body or PSU of Central/State Government and posted in same station or nearby station. In this case the spouse of the applicant is a Govt of Kerala employee and posted at Calicut. It means that while considering transfer, the priority will be determined on the basis of employee status of the spouse in the order stipulated therein. The applicant while registering his choice stations for transfer gave preference to Calicut and Shornur to join his family and look after his mother. In my opinion while deciding the place of posting, it has to be kept in mind that the same does not ultimately

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result in demotivating the employee. This would certainly not be conducive to the requirements of the job and would affect adversely, the interests of administration.

7 In this case the applicant was alerted about his ensuing transfer and hence he submitted representation dated 1.3.2012 seeking for transfer to Calicut/Kannur/Shoranur but his request was not acceded to. The respondents have rotated him within Mangalore going by his request given in 2007, when he had given Mangalore as his third choice, on the plea, that his request was registered for Mangalore and the applicant had not cancelled the same. It sounds as a strange contention, since the request given in 2007 was acted upon, by transferring him to Mangalore which was his third choice. Therefore, that request is no longer valid and the respondents should have notified the vacancies and called for requests for choice stations, if rotational transfer order was going to be issued as on 01.03.12. The applicant's request for 3 ^{choice st.} stations is dated 01.03.12 and 28.3.12. Obviously, he had no knowledge that general transfer order was going to be issued on 01.03.12. The respondents have submitted that they have not received a request for transfer to Calicut on spouse ground from the applicant and hence there was no entry in favour of the applicant in the register maintained for granting transfer at request. The respondents added that such transfer at request is ordered based on the date and year of submitting requests for transfer to the choice stations and not service seniority. I do find force in the contention of the respondents. However, the respondents have a duty to ensure that as far as possible the employees should be accommodated near their family when the spouse is working. It is true that it is not for the Tribunal to interfere with the prescribed policy of transfer on administrative grounds. The wheels of administration should be allowed to run smoothly in the best interest of the public. It is for the administration to take just and fair decisions and such decisions shall stand unless they are violative either by malafides or by extraneous consideration not supported by facts.

8 In view of the foregoing, the respondents are directed to note the request of the applicant for transfer to Calicut/Kannur/Shornur, on spouse ground on the basis of his Annexure A-3 request with the date of registration as 01.03.12. Further they shall consider the transfer of the applicant to Calicut/Kannur or Shornur in the next periodic general transfer for 2013 and pass orders accordingly. The O.A is disposed of as above. No costs.

Dated the 21st day of November, 2012



K. NOORJEHAN
ADMINISTRATIVE MEMBER

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