

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.435/93

DATE OF DECISION : 23.08.1993

Ushakumari, K.
Carriage & Wagon Khalasi,
O/o. Chief Wagon Supervisor,
SR, Trivandrum Central. .. Applicant

Mr.P.Sivan Pillai .. Adv. for applicant

V/s

1. Divisional Rly. Manager,
SR, Trivandrum-14.
2. The Divnl. Personnel Officer,
SR, Trivandrum.
3. S. Shylaja, Peon,
O/o Divnl. Rly. Manager,
SR, Trivandrum.

.. Respondents

Mr.P.A.Mohamed .. Adv. for respondents 1 & 2

CORAM: The Hon'ble Mr. N.Dharmadan, Judicial Member

JUDGEMENT

MR. N.DHARMADAN, JUDICIAL MEMBER

The question of a transfer of a woman Khalasi from the Carriage & Wagon Section as a Peon to the Divisional Office arises for consideration in this case.

2. According to the applicant, ever since her appointment on a compassionage ground as a Khalasi, with effect from 14.11.1986, she was facing harassment from the male employees and accordingly, on 13.4.88 she submitted a request for a transfer as a Peon to some other section in the Railway. That request was considered and rejected as per Annexure-A1 order dated 20.6.1988. The reason stated ^{is} that she has not completed a minimum period of three years service for getting a change of category as Peon. The

request of the applicant for change of category was again considered and rejected on the ground that the Southern Railway Employees Sangh strongly opposed the transfer of the applicant. Thereafter, the 3rd respondent, who was appointed on ad-hoc basis on 27.3.91 on a workcharged post of Electrical Khalasi, was given change of category even though she has not made a registration for getting the change, without considering the claim of the applicant for a change of category in view of the circumstances stated above.

3. Respondents have taken the view that the applicant's request for change of category of 13.4.88 was made before completing a minimum of three years service and hence she is not eligible to get a change of category on the basis of the said request. Considering the subsequent request of the applicant for change of category, she is ~~6th~~ ^{at treated as} 4th and denied relief. person in the seniority register. It is an admitted fact that the third respondent has not registered her name for change of category as ~~done~~ by the applicant. Respondents have no case in the reply that the applicant's contention that there is harassment from the male employees in the Carriage & Wagon wing where the applicant is working as a Woman Khalasi, is false.

4. When there is a complaint from a woman employee working as a Khalasi that there is harassment and ill-treatment by male employees, it is the duty of the Railway, being the employer, to investigate the same and ~~grant relief.~~ If it is a genuine complaint it is the further duty of the Railway to protect and give safety to women khalasis for ~~the~~ discharge of duties in a safe manner. In this case the applicant made complaint on 13.4.88 that there is harassment from the male employees. Presumably on the basis of the complaint that the respon-

dents have considered the request but turned down the same without focussing their attention to the real grievance of the applicant; they rejected the same taking the view that she has not completed three years service for getting the change of category. Respondents have not produced any order or rule prohibiting change of category for employees who have not completed three years of service. However, as indicated above, even if there is such rule prohibiting change of categories, when a woman employee makes a complaint of harassment from co-workers who are from the opposite sex, it is always the duty of the employer to protect the women employees from harassment and a change of category should be allowed notwithstanding any rule or raising technical contention as in this case. The safety of women employees should be ensured in every industry for the comfortable working of women employees. In fact it is a recognised right of women employees that they shall not be harassed or molested by male employees in an industry. If necessary the Railway should issue necessary circulars in this behalf protecting their rights in this behalf. The duty of the railway as indicated above has not been satisfied in this case. Hence, I am inclined to accept the contention of the applicant that she is entitled to a transfer not only as a right but on account of the fact that she is facing difficulty in discharging duties because of the harassment ^{from} male employees working in the section.

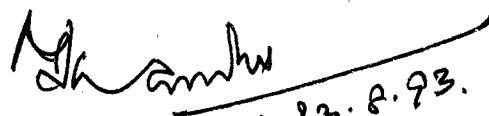
5. As per order dated 13.4.93 this Tribunal has directed the respondents to keep one vacancy of Peon in the Divisional Office, Trivandrum, so as to enable them to appoint the applicant in case the O.A. is allowed.

6. In the light of the above order, without disturbing the appointment of the 3rd respondent, this application can be allowed so as to enable the Divisional Personnel Officer

to post the applicant as Peon in the existing vacancy.

7. For the reasons stated above, I allow the application directing the second respondent to consider the request of the applicant for transfer as Peon in the vacancy kept unfilled as per the interim order, favourably in the light of the observations. This shall be done within a period of 30 days from the date of receipt of a copy of this judgment.

8. The application is allowed as above. No costs.


23.8.93.

(N.DHARMADAN)
JUDICIAL MEMBER
23.08.1993

v/-

LIST OF ANNEXURES:

1. Annexure-A1

.. Copy of letter No.V/P.535/
Mech1/Misc.Vol.II dt. 20.6.88.