

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 438/92
T. A. No. 199

DATE OF DECISION 28.4.92

K. Prabhakaran Applicant (s)

Mr. P. Sivan Pillai Advocate for the Applicant (s)

Versus

Senior Divisional Engineer, Southern Railway, Palghat & 2 others. Respondent (s)

Mr. M.C. Cherian Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. N.V. Krishnan, Administrative Member

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

The applicant is a Senior Gangman at Karakkad Railway Station under the 3rd respondent. He is aggrieved by the Ann.A1 order dated 3.3.92 which reads as follows:

"Since you have been transferred from 4.3.1992 to the 3rd Gang, you are to report for work at Gang No.3 (Mannanur) from tomorrow onwards (4.3.1992)."

He has challenged this order on the following grounds:

- (a) Only the Assistant Engineer, the second respondent can transfer him.
- (b) The transfer is by way of punishment.
- (c) It is made in the midst of the academic year.
- (d) It is made to oblige the gangmate.

*Received
today
18/3/92*

2. He has therefore sought the following reliefs:

- (a) To call for the records leading to Annexure-A1 and quash the same with all attendant benefits.
- (b) Direct the respondents to allow the applicant to continue in the same post in which he was working as on 3.3.1992.

3. A statement has been made by the second respondent explaining the need for transfer. The relevant reasons are stated in the following passage of the reply:

"Report that the applicant has assaulted a Gangmate by name Sri K.Aboo on 27.2.92 was received by this respondent. Both the applicant and the said Gangmate have been working at Gang No.7 at Karakkad. On receiving the above report, this respondent felt that it is not feasible in the interest of the Administration and smooth working of the Gang to continue the said Gangmate and the applicant in Gang No.7 at Karakkad. Accordingly the applicant was transferred to another Gang No.3 at Mannanur. This was as per order dated 3.3.92, a true copy of which is produced herewith and marked as Exhibit R1. In this connection it is submitted that the distance between Karakkad and Mannanur is about 10 Kms. Similarly the Gangmate concerned was also transferred to another Gang namely Gang No.5 at Shoranur. It may kindly be noted that all the said Gangs are under the one and the same Permanent Way Inspector, namely the 3rd respondent. It is not correct to say that the Gangmate concerned is a native of Shoranur and he has applied for transfer to Shoranur. The fact is that he is a native of Pallipuram, which is about 21 Kms from Shoranur and about 15 Kms from Karakkad. It is submitted that Annexure-A1 is not the transfer order, but it only refers to the transfer order already issued by this respondent, namely, Exhibit R1. The applicant refused to accept Exbt. R1 transfer order served on him but went on unauthorised absence from 4.3.92 to 7.3.92."

4. I have perused the records and heard the parties.

I am satisfied that the second respondent passed the order of transfer (Ann.R1) and the impugned order issued by the third respondent is only based on this order, though not stated specifically. If the third respondent himself had transferred the applicant the expression "since you have been transferred from 4.3.92" will have no meaning. It

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is held to

acquires meaning if it refers to the Ann.R1 order of transfer issued by the second respondent, without referring to it.

5. The order cannot be said to be in lieu of punishment. It is purely on administrative ground. The Railways are fully entitled to separate two quarrelling parties so that they do not meet again so that quarrels can be avoided. This could have been achieved by transferring only one of them, but that would have led to accusation of partisan action. Hence both were transferred.

6. The transfer is not to such a far off place as would require to be postponed till the academic year is over.

7. For these reasons, the application is dismissed.

Vtu
28/4/92
(N.V.Krishnan)
Administrative Member