

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.450/2000, O.A.624/2000 and O.A.625/2000

Tuesday, this the 17th day of October, 2000.

CORAM:

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

HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

O.A.450/2000

V.K.Gopi,
First Class Coach Attendant,
Southern Railway,
O/o the Chief Travelling Ticket Inspector,
Ernakulam Junction,
Ernakulam.

- Applicant

By Advocate Mr TC Govindaswamy

Vs

1. Union of India represented by
the General Manager,
Southern Railway,
Madras-3.
2. The Divisional Railway Manager,
Southern Railway,
Trivandrum Division,
Trivandrum-14.
3. The Senior Divisional Personnel officer,
Southern Railway,
Trivandrum Division,
Trivandrum-14.
4. K.R.Raveendran,
First Class Coach Attendant,
Ernakulam Junction, through
the Divisional Personnel officer,
Southern Railway,
Trivandrum-14.

- Respondents

By Advocate Mr K Karthikeya Panicker(for R.1 to 3)

O.A.624/2000

R.Mohan,
First Class Coach Attendant,
Southern Railway,
Trivandrum.

- Applicant

By Advocate Mr TC Govindaswamy

Vs.

1. Union of India represented by
the General Manager,
Southern Railway,
Park Town.P.O.
Madras-3.
 2. Divisional Railway Manager,
Southern Railway,
Trivandrum Division,
Trivandrum-14.
 3. The Senior Divisional Personnel officer,
Southern Railway,
Trivandrum Division,
Trivandrum-14.
 4. The Divisional Commercial Manager,
Southern Railway,
Trivandrum.
 5. K.R.Raveendran,
First Class Coach Attendant,
Southern Railway,
Ernakulam Junction, through
The Divisional Personnel officer,
Southern Railway,
Trivandrum.
- Respondents

By Advocate Mr James Kurian(for R.1 to 4)

O.A.625/2000

P.Rajendra Prasad,
First Class Coach Attendant,
Southern Railway,
Trivandrum.

- Applicant

By Advocate Mr TC Govindaswamy

Vs

1. Union of India represented by
the General Manager,
Southern Railway,
Park Town.P.O.
Madras-3.
2. Divisional Railway Manager,
Southern Railway,
Trivandrum Division,
Trivandrum-14.
3. The Senior Divisional Personnel officer,
Southern Railway,
Trivandrum Division,
Trivandrum-14.

4. The Divisional Commercial Manager,
Southern Railway,
Trivandrum.
5. K.R.Raveendran,
First Class Coach Attendant,
Southern Railway,
Ernakulam Junction, through
the Divisional Personnel Officer,
Southern Railway,
Trivandrum.

- Respondents

By Advocate Mr KV Sachidanandan (for R.1 to 4)


The application having been heard on 17.10.2000, the Tribunal on the same day delivered the following:

O R D E R

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

Since the impugned orders in all these three cases are one and the same and the facts are identical, the cases are being heard jointly and disposed of by this common order.

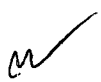
2. Shri V.K.Gopi, the applicant in O.A. 450/2000 while working as Server in the Commercial Department of the Southern Railway, and Shri R. Mohan, applicant in O.A. 624/2000 and Shri P.Rajendra Prasad, applicant in O.A. 625/2000 while working as Pointsmen in the Traffic Department, were selected for appointment to the posts of First Class Coach Attendant in the scale of Rs.775-1025. They were imparted training and by order dated 7.5.90 (A2) appointed as First Class Coach Attendants (FCCA for short) in the scale of Rs.775-1025 temporarily. Shri Gopi, the applicant in O.A. 450/2000 was promoted to the next higher grade in the scale of Rs.800-1150 w.e.f. 19.1.1993. The common grievance of all these applicants is that all of a sudden, by impugned order dated 19.4.2000 (A1) Shri Gopi has been posted as Gateman and Shri



Mohan and Shri Rajendra Prasad have been posted as Pointsman (II/TVC) in the Traffic Department.. Before the impugned order was issued, on 6.7.99 they were called upon to state whether they were willing to go on promotion as Pointsman (A), but they did not opt to go back on promotion. Alleging that as the applicants have been confirmed on the posts of FCCA in the Commercial Department, their transfer to the Traffic Department was arbitrary, illegal, unsustainable and unwarranted as there was no reduction in the cadre as contended by the respondents, the applicants have filed this application seeking to have the impugned order (A-1) set aside to the extent it affects the applicants and for a direction to the respondents to grant them consequential benefits.

3. The respondents in their reply statement contend that the appointment of the applicants as FCCA were on ex-cadre post that, as there is a reduction in the First Class Coaches as a policy decision of the Government, five posts of FCCA have been surrendered with the approval of the competent authority and that therefore, the respondents have reverted the applicants to their parent cadre.

4. The applicants in their rejoinder contended that the case of reduction of first class coaches and surrender of posts are not factually correct, that the surrender, if any, has not been made by the competent authority, and that therefore, the applicants are entitled to the reliefs claimed in the O.A.



5. An additional reply statement has been filed by the respondents in O.A. 624/2000 producing an 'Avenue Chart' of the Traffic Department (Annexure R-2) to establish that the posts of FCCA are ex-cadre posts.

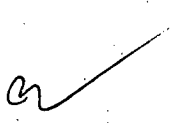
6. We have carefully gone through the pleadings and have also scrutinised the documents and materials placed on record. We have heard Shri Anthru, learned counsel appearing for the applicants and Shri K.Karthikeya Panicker, Shri. James Kurian and Shri K.V. Sachidanandan, learned counsel appearing for the respondents in these cases.

7. The pivotal question that calls for answer in these cases is whether the posts of FCCA is a cadre post on which the applicants in these cases have been confirmed or whether the appointment of the applicants were made on ex-cadre basis. The order of appointment of the applicants do not indicate whether the appointment is to a cadre post or ex-cadre post. From Annexure R-2, the 'Avenue Chart', especially the note under Annexure R-2, it is evident that the posts of FCCA are ex-cadre posts and do not belong to any cadre. The respondents have very clearly stated in their reply statement that five posts of FCCAs have been surrendered and the documents in proof thereof have been made available in O.A.450/2000 in (Annexure R-1). It is stated that the surrender of posts has got the approval of the competent authority. Learned counsel of the applicants vehemently argued that since the posts have been created with the

sanction of the Railway Board by General Manager, no authority below the rank of General Manager can surrender the posts. From Annexure R-1, it is evident that the surrender of the posts was with the approval of the competent authority and we do not find any reason to doubt the authenticity of the statement therein. Official acts are presumed to have been done correctly and in accordance with the rules, unless there is any reason atleast to doubt that the power has been exercised to achieve an oblique motive. From the averments made in the O.A., we do not find any room for such a suspicion. Since the applicants are holding lien on their posts in the parent cadre on the reduction of the number of ex-cadre posts, they have no right to say that they should not be repatriated. It has been alleged in the applications that three persons who are junior to the applicants have been retained as FCCAs and the principle of 'last come first go' has not been followed. This has been explained by the respondents in their reply statement in O.A.624/2000 stating that these three persons having been found medically unfit in A-1 category and fit in B-1 only, not suitable for appointment to the post of Pointsman and as posts commensurate with their physical standard are not presently available, they are being retained bonafide in public interest. We do not find any reason to say that this action has not been taken bonafide.

8. In the light of what is stated above, we do not find any infirmity in the order of sending the applicants in these cases back to their parent cadre.

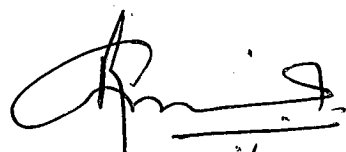
9. In the case of Mr.Gopi, applicant in O.A. 450/2000,



admittedly he belonged to the Commercial Department even before he was appointed as FCCA because he was working as a Server. Therefore, normally, the respondents could not have posted him to the Traffic Department which is not the department he belonged before appointment as FCCA. Therefore, in his case the impugned order to the extent of his being sent to the Traffic Department as Gateman has to be interfered with.

10. In the light of what is stated above, O.A. 624/2000 and O.A. 625/2000 are dismissed. The impugned order in O.A.450/2000 is set aside to the extent of posting of the applicant, Gopi as Gateman in the Traffic Department. The respondents are free to post the applicant on the post which he would have held but for his appointment as FCCA and till such date the applicant is given such a posting in the Commercial Department, he shall be retained as FCCA. There is no order as to costs.

Dated, the 17th of October, 2000



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

list of Annexures referred to in the order:

Annexure A-1: No. 00 No.T24/2000/Gr.D dated
19.4.2000 issued by the third respondent.

Annexure A-2: Office order No. T46/90/Gr.D dated
7.5.90 issued by the 3rd respondent.

Annexure R-1 (OA-450/2000): True copy of the
Memorandum No.V/P.135/Ty.stn/Tfc/Vol.IV dated
3.3.2000.

Annexure R-2 (OA-624/2000): Photocopy of extracts of
CPO/MAS letter No P(S) 529/II/Avenue Charts/Class IV
dt. 29-6-88.