

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

O.A No.463/86

K Purushothaman Nair : Applicant

-Vs-

- | | | |
|---|---|---------------|
| 1 Union of India rep. by
the Secretary
Railway Board,
Rail Bhavan, New Delhi | } | : Respondents |
| 2 Chief Personnel Officer
Southern Railway, Madras. | | |
| 3 General Manager
Southern Railway, Madras. | | |
| 4 Divisional Railway Manager
Southern Railway
Trivandrum. | | |

M/s KA Abraham & Majnu Komath : Counsel of Applicant

Mrs. Sumathi Dandapani : Counsel of Respondents

CORAM

Hon'ble Shri G Sreedharan Nair, Judicial Member

and

Hon'ble Smt. J Anjani Dayanand, Administrative Member

ORDER

(Order pronounced by Hon'ble Smt J Anjani Dayanand,
Administrative Member)

This is an application filed by K Purushothaman Nair
seeking refixation of seniority as Assistant Station
Master from the date on which he was promoted as
Assistant Station Master on 25.7.64 or alternatively
to count the seniority from 10.5.65 in terms of

para 3(b) of the order dated 10.3.1977, Annexure I to the application i.e. the date of his joining the Assistant Station Master Cadre.

2 The facts of the case as stated in the application are that the applicant was recruited by the Railway Public Service Commission as Train Clerk on 1.2.55. He was promoted as Assistant Station Master on 25.7.64. On 10.5.65 the applicant was transferred and posted as Assistant Yard Master, in which post he worked till 12.7.73, i.e. for eight years. The applicant was then transferred for a period of one year and two months from 12.7.73 to 1.9.74 as Assistant Station Master. On 2.9.74, the applicant was transferred back and posted as Assistant Yard Master. All these transfers and postings were done by the administration in the exigencies of service.

3 The case of the applicant is that till 1.10.62, the ^{posts}~~cadres~~ of Station Master/ Assistant Station Master/ Yard Master/ Assistant Yard Master were treated as borne on the same cadre with common seniority. By the end of 1962, the Railway Board decided to bifurcate the cadres and asked the employees to exercise their

option. The last date for exercising such option was 15.11.62, but the actual bifurcation was given effect to only from 15.5.66.

4 In December, 1962 the applicant passed the Station Master's Training Course and was subsequently promoted and posted as Assistant Station Master on 25.7.64. The bifurcation had then not been given effect to. The applicant was working as a Train Clerk in 1962 and therefore, the question of exercising his option in November, 1962 did not arise. The actual bifurcation took effect from 15.5.66 on which date the applicant was working as Assistant Yard Master. The applicant states that option was not called for from him, although in other divisions of the Railway, options were called for from employees and another chance given to the employees to exercise their options at the time of actual bifurcation. He, therefore, presumed that he was borne on the cadre of Assistant Yard Master.

5 The Railway Board gave yet another option to the staff vide their letter dated

~~dated~~ 10.3.77 (Annexure-I). In this letter it was clearly stated that those who were drafted to the Yard Cadre between November, 62 and May 66 as well as those drafted thereafter will count their seniority in the yard cadre only from the date they joined the cadre. Accordingly, the applicant expressed his willingness to join the yard service in the year 1977.

6 When the seniority list, Annexure--II to the application, was published in 1978, he was surprised to see that his seniority in the yard cadre was fixed from 2.9.74. He made several representations to the authorities. However, even in the revised seniority list published in 1985, the position of the applicant ~~was~~ continued to be shown as 2.9.74. The applicant is aggrieved by this ~~issued~~ order and has sought relief by way of re-fixation of seniority with effect from the original date from which he was promoted as Assistant Station Master on 25.7.64, or from 10.5.65 i.e. the date of his joining the Assistant Yard Master Cadre.

7 On behalf of the respondents it ~~has been stated~~ ^{is contended} that the application is not maintainable on account of

limitation. As regards the merit of the application it has been admitted that till 1966 the cadre of Station Master and Yard Master was the same. It has also been admitted that the bifurcation took place only in the year 1966. The orders for bifurcation and creation of the cadre of Station Master/Assistant Station Master on the one hand, and Yard Master/Assistant Yard Master on the other, were issued as early as 1962. In 1962, the applicant was only a Train Clerk. He had sought his promotional prospects in career in the cadre of Station Master when he acquiesced in his promotion and joined one of the bifurcated cadres i.e. that of Station Master/Assistant Station Master. Since at the time he got his promotion i.e. in 1964, the fact of bifurcation was clearly known, he could have easily given his preference to be considered for a posting in the yard cadre. This he did not do. While working as Relieving Assistant Station Master at Ernakulam, the applicant was drafted to work as Assistant Station Master on yard duty. He was not appointed as Assistant Yard Master as contended in the application. The applicants lien and seniority continued to be reckoned on the

basis that he was a Assistant Station Master. ~~on his~~

being drafted to work on yard duty with effect

from 10.5.65, did not involve a change in the cadre.

The applicant ~~who was~~ continued to hold the lien on

the post of Assistant Station Master and, therefore,

while he was working as an Assistant Station Master

put to yard duty, he was transferred to an "inconvenient"

station viz, Kottakkad. He accepted this transfer

and continued to work from 12.7.73 to 1.9.74. At

this stage on ^a representation made by the recognised

union, the Railway Administration gave a further

option to the staff to indicate their preference for

joining either of the cadres. The applicant exercised

his option on 7.4.77 in terms of the decision contained

in the letter No. P(S)529/II/13/Vol.II dated 10.3.77

(Ext.R1). The applicant was re-transferred from

Kottakkad on 1.9.74 and he joined duty as Assistant

Yard Master with effect from 2.9.74. From this date

he had been on continuous duty as Assistant Yard

Master in the yard cadre and therefore, his seniority

has been fixed accordingly.

8 The learned counsel for the applicant in his

arguments pointed out that great injustice had been

done to the applicant by not counting the eight years of service he had spent as Assistant Yard Master from 10.5.65 to 12.7.73. There was only a period of one year from 17.7.73 to 1.9.74 when he was transferred as Assistant Station Master. He was re-transferred from 2.9.74 to yard duty again. Since these transfers were only on administrative grounds and the applicant had not been given a chance to exercise his option in 1962, since he was at that time only a Train Clerk, it was not fair to deny him the benefit of eight years of service on yard duty while fixing his seniority. He conceded, however, that he exercised his option only in the year 1977 in response to the Railway Board's letter dated 10.3.77. He pleaded that the applicant should not be denied the benefit of his 8 years' service in the yard cadre. The learned counsel for the applicant also conceded that he had accepted his transfer to Kottakkad Railway Station as Assistant Station Master knowing full well the grounds on which he was transferred, since Station Masters/Assistant Station Masters have to serve one year in an "inconvenient station". The counsel, however, quoted Rule 311 of the Railway

Establishment Manual which regulates the seniority in cases of transfer in the interest of administration which reads as follows:

" 311. Transfer in the interest of administration. Seniority of railway servants on transfer from one cadre to another in the interest of the administration is regulated by the date of promotion/date of appointment to the grade as the case may be".

9 The learned counsel for the respondents did not press the issue regarding the maintainability of the application on grounds of limitation. However, on the merits of the case, the learned counsel pointed out that the Railway Administration had been very liberal in permitting the employees to exercise their options several times, the last one being in 1977 as a result of representations from the recognised union. It was only in response to this, that the applicant had given his option to be considered for the yard cadre. Even though he had exercised his option in 1977, the Railway Administration had given him seniority with effect from 2.9.74, the date from which he continuously acted on yard duty after he had exercised his option. His earlier service of eight years was as Assistant Station Master drafted for yard duty. During that period immediately after the bifurcation there was a dearth of adequate

number of hands in the yard cadre and persons from the Station Master/ Assistant Station Master cadre had to be drafted. However, as per the service conditions attached to the Station Master/Assistant Station Master he was given a transfer to an "inconvenient station" which also he accepted without protest. There was no question of any discrimination against the applicant, nor was there any intention to deprive him of his due service rights.

10 We have perused the documents and heard the learned counsel on either side. We are unable to accept the contention of the applicant that he was un-aware of the cadre in which his name was reflected since even when he was initially promoted as Assistant Station Master i.e. on 25.7.64, the cadre had already been bifurcated in 1962. It is also difficult to accept the contention of the applicant that he presumed that since he was in yard duty from 1965 to 1973, he was assigned to the yard cadre. Having willingly accepted the service conditions attached to the Station Master/Assistant Station Master and also


accepting willingly the transfer to an inconvenient Railway Station, Kottekkad for one year, without protest, and exercising his option specifically only in 1977, it is obvious that the applicant was very well aware that he did not belong till then, to the yard cadre. The very fact that he exercised his option in 1977 reveals this fact clearly.

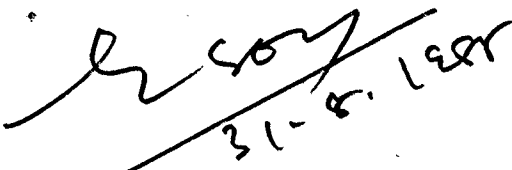
We, therefore, consider that the Railway Administration has rightly fixed his seniority with due regard to

his continuous service in the yard cadre from 2.9.74 — *in the Seniority list published in 1978 - i.e.* after he had exercised his option in 1977.

11 The application is accordingly dismissed.

There will be no order as to costs.


(Smt. J. Anjani Dayanand)
Administrative Member
31.8.88


(G. Sreedharan Nair)
Judicial Member
31.8.88

Index: Yes/~~No~~