

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 49/2001

Thursday, this the 13th day of February, 2003.

CORAM :

HON'BLE SHRI A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE SHRI T.N.T. NAYAR, ADMINISTRATIVE MEMBER

B. Sasidharan Pillai,
S/o K.V. Bhasi,
Works Mate,
Under the O/o the Dy. Chief Engineer(C.N.),
Southern Railway,
Thiruvananthapuram,
residing at 12D, Railway Quarters,
Kochuveli, Thiruvananthapuram. ... Applicant

(By Advocate Mrs. Chincy Gopakumar)

Vs

1. Union of India rep. by the
General Manager,
Southern Railway,
Madras-3.
2. Chief Engineer(Construction),
Headquarters Office,
Works Construction Branch,
Egmore, Chennai-600008. ... Respondents

(By Mrs. Rajeshwari Krishnan)

The application having been heard on 13.2.2003, the
Tribunal on the same day delivered the following :

ORDER

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

The applicant was selected by the CE/CN/MS under his
special powers in regard to appointment to the Wards of loyal
workers during the Railway General Strike in the year 1974 and
was appointed on temporary post of Laskar in the Construction
Organisation against one of the Construction reserve vacancy
informing that he would not have any claim for absorption against
vacancies on the open line and seniority, promotion etc. over
others in the open line, and that he would be liable for transfer
anywhere in the entire Southern Railway Construction system. He
continued in the Construction Organisation and was promoted and

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is presently working on the post Works Mate. His grievance is that by the impugned order Annexure A1, he has now been repatriated to open line in the Madurai Division to the post of Senior Laskar in the scale of Rs.2610-3540/-. Alleging that the applicant who was appointed against a Construction Reserve post, is not liable to be transferred to open line, reducing him in rank, while other persons like V.R. Balakrishnan, K.K. Sreedharan, A. Shanmugham etc. have been allowed to continue in the Construction Organisation uninterruptedly, the applicant has filed this application seeking to set aside Annexure A1 order to the extent of his transfer to the open line reducing in status and pay and for a direction to the respondents to see that the applicant is retained in the Construction Wing at TVC so far as various work are being carried on the Construction Wing.

2. The respondents contend that though the applicant is appointed against a Construction Reserve Post, he was provided a lien in the post of Laskar in Madurai Division by R-1 order, that he was promoted, late, and that owing to reduction in construction work, posts having been surplus, the applicant is being repatriated in public interest to open line where he holds a lien. This also having been taken in public interest the respondents contend that the applicant has no legitimate grievance. The respondents further contend that Full Bench of the Central Administrative Tribunal in OA No.103/97 and connected cases held that

"Railway Servants hold lien in their parent cadre under a division of the Railways and on being deputed to Construction Organisation, and there having promoted on higher post on adhoc basis and continue to function on that post on adhoc basis for a very long time would not be entitled to regularisation on that post in their parent division/office and are liable to be repatriated to open line if there is no work in the Construction Organisation. They are entitled to regularisation in their turn, in the parent division/office strictly in accordance with the rules and instructions on the subject."

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3. We have perused the pleadings and material placed on record and have heard Ms. Silvi Joseph, the learned counsel for the applicant and Shri Krishnan Nair, the learned counsel for the respondents.

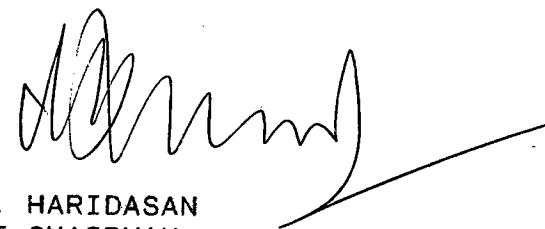
4. The learned counsel for the applicant argued that the applicant having been appointed on a Construction Reserve Post, he cannot be repatriated to the open line. We find that the applicant was only given temporary appointment in the Construction Organisation by Annexure A2 but he has been given a lien in the post of Laskar by Annexure R1 order by DPO. It is not disputed that the applicant was promoted in his turn in the open line as Senior Laskar and allowed to continue in the Construction Organisation. If there is want of work in the Construction Organisation, the respondents have no option to repatriate the surplus to open line where they hold a lien. The applicant has no case that there are persons who are juniors of the applicant in the Construction Organisation. If the applicant has been repatriated retaining his juniors, then it can be said that there has been a hostile discrimination against him. There is no such allegations. Under the circumstances, we find nothing wrong in the action taken by the respondents repatriating the applicant to open line in public interest.

4. In the light of what is stated above, the application is dismissed. No costs.

Dated the 13th February, 2003.



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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