

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No.489 of 1996

Monday, this the 24th day of June, 1996

CORAM

HON'BLE MR JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN

HON'BLE MR P V VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

A.K. Balakrishnan, S/o A.C. Kittu,
Junior Engineer (Electrical),
Grade-I, Train Lighting,
Southern Railway,
Cochin Harbour Terminus Railway Station,
Cochin.

.. Applicant

(By Advocate Mr T.C. Govindaswamy).

Vs

1. The General Manager,
Southern Railway,
Headquarters Office,
Park Town P.O., Madras- 3.
2. The Chief Electrical Engineer,
Southern Railway,
Headquarters Office,
Park Town P.O., Madras -3.
3. The Divisional Personnel Officer,
Southern Railway,
Trivandrum Division, Trivandrum-14.
4. The Senior Divisional Electrical Engineer,
Southern Railway,
Trivandrum Division, Trivandrum-14.
5. Sasidharan, Shop Superintendent,
Electrical Shop, Carriage Works,
Perambur.
Through the Divisional Personnel Officer,
Southern Railway, Trivandrum-14.

.. Respondents

(By Advocate Mr Mathews J. Nedumpara (R 1 to 4)

(By V.R. Ramachandran Nair for R -5.)

The application having been heard on 24th June 1996,
the Tribunal on the same day delivered the following:

O R D E R

CHETTUR SANKARAN NAIR (J), VICE CHAIRMAN

Applicant challenges Annexure R-1 order, by which he was transferred from Cochin Harbour Terminus to Perambur.

2. While he was working at Trivandrum, he was transferred to Cochin Harbour Terminus by the Divisional Railway Manager. Pursuant to that, he joined Cochin Harbour Terminus and worked there for twenty days when came another order of transfer, issued by the Senior Personnel Officer, Southern Railway, Madras. That order is challenged.

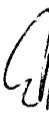
3. Learned counsel for the Railways argued vehemently, to support the impugned order. He would say that the Chief Electrical Engineer alone has the power to make an inter-divisional transfer and that the order therefore, is perfectly valid. This is true. But, equally valid is the order made by the Divisional Manager within the division. We are told that the Divisional Railway Manager and the Chief Electrical Engineer are officers of equal rank. When two authorities act within their jurisdictions, and pass conflicting orders it can lead to a stalemate. Good administration must visualise procedure, which would avoid such conflicts. In a case for inter-divisional transfer, the authority competent to order a transfer should do so, if not in concurrence atleast in consultation with, the divisional authority. When there are two orders, both made with jurisdiction, no legal principle would justify the upholding one

Order and quashing the other, more so when both orders are made by coeval authorities.

4. The Railway Administration should take care to see that proper procedure is visualised to avoid such situations. In the instant case since both orders are made with jurisdiction, we could not uphold or quash the one, or the other. The matter will be examined by first respondent General Manager, and he will decide as to which of the two orders should prevail. Depending on his decision he may ask the authority whose order he thinks should not remain in force, to withdraw or cancel such order. We hope that the General Manager would issue appropriate directions to ensure that authorities subordinate to him, do not issue conflicting orders, the beneficiary of which often, or atleast sometimes, will be an undeserving beneficiary.

5. With the aforesaid observations, we dispose of the application maintaining status quo as on 20.4.96 till the General Manager issues appropriate directions. No costs.

Dated the 24th June, 1996.


P V VENKATAKRISHNAN

ADMINISTRATIVE MEMBER


CHETTUR SANKARAN NAIR (J)

VICE CHAIRMAN

List of Annexure

Annexure R1: True photo copy of Order No.EL.36/96
dated 19.4.1996 issued by the senior
personnel officer, Southern Railway,
Madras.