

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 496 of 2001

Monday, this the 11th day of June, 2001

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER
HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

1. S. Arun Singh, S/o late Sadanandan, Head Clerk, Railway Claims Tribunal, Ernakulam Bench
Permanent address: Puduparambil Padinjarethil, Kurampala South, Pandalam PO, Pathanamthitta District, Kerala. ... Applicant

By Advocate Mr. T.C. Govindaswamy

Versus

1. Union of India represented by the Secretary to the Government of India, Ministry of Railways, New Delhi.
2. The Chairman, Railway Claims Tribunal, 13/15, Mall Road, New Delhi - 110 054
3. The Registrar, Railway Claims Tribunal, Dharbar Hall Road, Ernakulam Bench, Ernakulam.
4. The General Manager, Southern Railway, Headquarters Office, Park Town PO, Chennai-3
5. The Chief Commercial Manager, Southern Railway, Head Quarters Office, Park Town PO, Chennai-3
6. The Chief Personnel Officer, Southern Railway, Head Quarters Office, Park Town PO, Chennai-3
7. The Financial Adviser & Chief Accounts Officer, Southern Railway, Head Quarters Office, Park Town PO, Chennai-3 ... Respondents

By Advocate Mrs Sumathi Dandapani (represented)

The application having been heard on 11-6-2001, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

The applicant seeks to declare that non-feasance on the part of the Southern Railway Administration to transfer the element of higher grade of scale Rs.5000-8000 to the Railway

Claims Tribunal, Ernakulam Bench in terms of A2 orders of the Railway Board and that too with reference to his promotion to the scale of Rs.5000-8000 is arbitrary and to direct respondents 4 to 7 to transfer the element of higher grade in the post of Head Clerk, to which he was promoted, to the Railway Claims Tribunal, Ernakulam Bench and to allow him to continue in the Railway Claims Tribunal, Ernakulam Bench to the extent the administrative interest of the Railway Claims Tribunal, Ernakulam Bench warrants such a retention.

2. The applicant is working as Head Clerk in the scale of Rs.5000-8000 in the Railway Claims Tribunal, Ernakulam Bench. He says that in terms of A2 and A3 the Southern Railway Administration is bound to transfer the higher grade element in the scale of Rs.5000-8000 to the Railway Claims Tribunal, Ernakulam Bench as a matter of course. The administrative interest for such action is the administrative interest of the Railway Claims Tribunal.

3. It is the admitted case of the applicant that he was posted in the Railway Claims Tribunal, Ernakulam Bench on deputation. It is well settled that an incumbent who is on deputation has no right to continue on deputation. So, the prayer of the applicant to allow him to continue at Ernakulam in the Railway Claims Tribunal is not sustainable.

4. Much reliance is placed by the applicant on A2. In A2, it is stated that on the basis of the views received from the Railways the matter was examined by the Board and it has been decided that on the analogy of Board's instructions vide their letter No. E(NG)II/85/RRB/60 dated 24-2-1986 staff working in the Railway Claims Tribunal when promoted in the parent Railway may be retained in the Railway Claims Tribunal in the higher grade by transfer of higher grade element from Railway

to the Railway Claims Tribunal, if their retention in the Railway Claims Tribunal is considered essential in the administrative interest. A3 is the instruction bearing No. E(NG)II/85/RRB/68 dated 24-2-1986.

5. From A2 it is very clear that the decision taken by the Railway Board is only that the staff working in Railway Claims Tribunal when promoted in the parent Department may be retained in the Railway Claims Tribunal in the higher grade by transfer of higher grade element from the Railway to the Railway Claims Tribunal (emphasis supplied). So, it is not mandatory since the words used are only "may be". Further, A2 clearly says that such retention is necessary only if it is considered essential in the administrative interest. It is for the administration to decide whether such retention is in the administrative interest or not. How the administration should work, it is not for the Tribunal to dictate. It is for the administration to decide. So, based on A2, the applicant does not get a right to any of the reliefs sought.

6. The learned counsel appearing for the applicant drew our attention to Section 12 of the Railway Claims Tribunal Act, 1987, which says that the Central Government shall determine the nature and categories of the officers and other employees required to assist the Claims Tribunal in the discharge of its functions and provide the Claims Tribunal with such officers and other employees as it may think fit, that the officers and other employees of the Claims Tribunal shall discharge their functions under the general superintendence of the Chairman and that the salaries and allowances and conditions of service of the officers and other employees of the Claims Tribunal shall be such as may be prescribed.

7. At the very outset, it is to be noted that what Section 12 says is that the Central Government shall determine the nature and categories of officers and other employees "as it may think fit". So, it is for the Central Government to decide or determine that aspect.

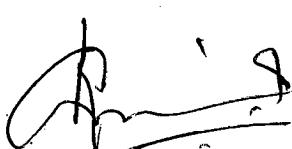
8. The learned counsel for the applicant argued that the rule making power is vested with the Central Government as per Section 13 of the Railway Claims Tribunal Act and rules have not been framed so far and therefore, the executive instructions will hold the field. Even accepting that on the basis of A2, for the reasons we have already stated, the applicant cannot seek the reliefs claimed for.

9. From the third relief sought it appears that the applicant is more interested in the administrative interest of the Railway Claims Tribunal for he says that the respondents be directed to allow him to continue in the Railway Claims Tribunal Ernakulam Bench to the extent the administrative interest of the Railway Claims Tribunal, Ernakulam Bench warrants such a retention. It is not for the applicant to say that the administrative interest of the Railway Claims Tribunal, Ernakulam Bench will be protected well only by retaining him at Ernakulam Bench of the Railway Claims Tribunal.

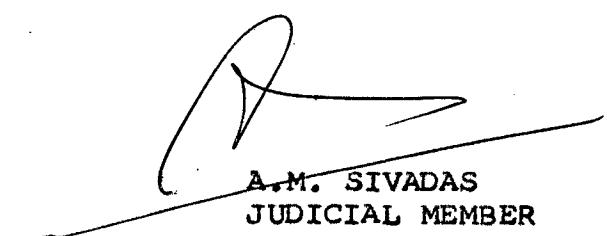
10. We do not find any merit in this Original Application.

11. Accordingly, the Original Application is dismissed. No costs.

Monday, this the 11th day of June, 2001



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

ak.

List of Annexure referred to in this order:-

1. A2 - True copy of the order bearing No. 94/TC(RCT)/1-5 of 19/23-2-96
2. A3 - True copy of the Railway Board letter No. E(NG)II/85/RRB/68 of 24-2-1986.