

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.522/99.

Wednesday this the 3rd day of October 2001.

CORAM:

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

1. P.K.Sugunan, Station Master,
Southern Railway, Kuruppanthara,
Kottayam.
2. T. Mohandas, Station Master,
Southern Railway, Chalakudi.
3. A.V.Mathews, Station Master,
Southern Railway,
Piravom Road, Kottayam.
4. N.S.Shajimon, Station Master,
Southern Railway,
Kuruppanthara, Kottayam.
5. K.J.Hariprasad, Station Master,
Southern Railway, Valliyoor,
Kottayam.
6. O.K.Rajasekharan, Station Master,
Southern Railway, Irinjalakuda,
Pathanamthitta. Applicants

(By Advocate S/Shri T.C.Govindaswamy, K.M.Anthru & Martin G.Thottan)

Vs.

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

(By Advocate Shri K.V.Sachidanandan)

The application having been heard on 3rd October 2001
the Tribunal on the same day delivered the following:

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ORDER

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

The applicants 5 in number while working as Assistant Station Masters in Palghat Division registered their requests for transfer to Trivandrum Division on 25.10.85, 25.7.85, 20.1.85, 13.7.85, 12.11.85 and 15.11.85. However, the applicants were transferred to Trivandrum Division only in the year 1994 and 1995, by orders at A-1 to A-3 in which orders it had been stated that they would rank junior to all Assistant Station Masters permanent and temporary officiating Assistant Station Masters at Trivandrum Division and the seniority would be regulated in terms of the orders in O.A.956/90 and O.A.160/91. The applicants were given seniority in the transferred unit in Trivandrum Division only with effect from the date on which they joined to that Division. Aggrieved, the applicants have sought revision of seniority giving them the benefit of the seniority in terms of the orders in O.A.956/90 and O.A.160/91. As their claims were not being attended to, the applicants have filed O.A.1685/98 which was disposed of directing the respondents to consider the representation and to give them an appropriate reply. Pursuant to that, A-15 has been issued informing the applicants that their seniority would be fixed strictly in accordance with the rules with effect from the date of their joining at Trivandrum Division and the orders in O.A.956/90 and O.A.160/91 being an order in personam was not relevant for fixation of seniority of the applicants. Aggrieved by that the applicants have filed this application seeking to set aside the impugned order and for a direction to the respondents 1&2 to determine the applicants' seniority in the initial scale of Rs.1200-2040 in the cadre of Station Masters of Southern Railway, Trivandrum Division in the light

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of the directions of this Tribunal in O.A.956/90 and O.A.160/91 dated 21.4.92 and as promised in A-1 to A-3 and to direct the respondents to grant the applicants the consequential benefits thereof.

2. We have heard the learned counsel on either side and have perused the pleadings on record. Learned counsel for the applicants argued that the applicants are similarly situated like the applicants in O.A.956/90 and O.A.160/91.

3. Learned counsel for the respondents argued that the seniority of the applicants who are inter-Divisional transferees, on a request, has been fixed in accordance with the provisions contained in para 312 of the Indian Railway Establishment Manual, Vol.I, in which it is provided that the seniority of Railway servants transferred at their own request from one railway to another should be allotted below that of the existing confirmed, temporary and officiating Railway servants in the relevant grade in the promotion group in the new establishment irrespective of the date of confirmation or length of officiating or temporary service of the transferred railway servants.

4. Shri TC Govindaswamy, learned counsel for the applicants stated that the applicants in this case being persons similarly situated like the applicants in O.A.956/90 and O.A.160/91, in terms of the provisions contained in IREM, Vol.I, their seniority should have been regulated in the order of the dates of registration for transfer.

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5. We have perused the orders in O.A.956/90 and O.A.160/91(A-4). The applicants in those cases had challenged their seniority position vis-a-vis that of the respondents 4 to 12 who had been transferred from Madurai Division to Trivandrum Division after the applicants' transfer was accepted but before they were transferred. There is a clear finding in the order that in the case of the applicants therein their transfer had already been accepted in the year 1988 although they were relieved only later. It was under these circumstances that the applicants in those cases were directed to be given seniority with effect from the date of their transfer and above respondents 4 to 12 who were transferred from Madurai Division after the transfer of the applicants were accepted and before they could join Trivandrum Division following the judgement of the Delhi High Court in R.N.Dhawan Vs Union of India and others, (1981) 2 SLJ 396. In this case, the averment in the application itself makes the case of the applicant dissimilar to that of the applicants in those cases. It has been stated in paragraph 4 of the O.A. that, though the applicants had applied for transfer to Trivandrum Division in 1985, they were transferred only during 1994 and 1995. Therefore, the applicants in this case cannot claim that they are similarly situated as the applicants in O.A.956/90 and 161/91, the difference being that the transfer of the applicants in those OAs. had been affirmed in 1988 and they were relieved later on

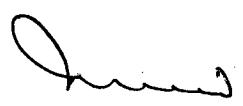


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administrative grounds while in this case the transfer of the applicants were ordered only in 1994 and 1995. We, therefore find no infirmity with the impugned order A-15.

In the light of what is stated above, the application is dismissed without any order as to costs.

Dated the 3rd October 2001.


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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A P P E N D I X

1. Annexure A1 : True copy of the office order No.T.78/94 dated 5.12.94 issued by the third respondent.
2. Annexure A2 : True copy of the office order No.T.24/95 dated 3.4.95 issued by the third respondent.
3. Annexure A3 : True copy of the office order No.T.67/94 dated 7/10-10-94 issued by the third respondent.
4. Annexure A4 : True copy of the judgment of this Hon'ble Tribunal in O.A.956/90 and 160/91 dated 21.4.92.
5. Annexure A5 : True copy of the representation dated 30.11.95 submitted by the Ist respondent.
6. Annexure A6 : True copy of representation dated 21.8.95 submitted by second applicant to the Ist respondent
7. Annexure A7 : True copy of representation dated 31.11.95 submitted by third applicant to the Ist respondent
8. Annexure A8 : True copy of representation dated 5.10.95 submitted by fourth applicant to the Ist respondent
9. Annexure A9 : True copy of representation dated 8.8.95 submitted by fifth applicant to the Ist respondent
10. Annexure A10: True copy of the representation dated 24.6.95 submitted by the sixth applicant to the first respondent
11. Annexure A11 True copy of the joint representation dated 25.7.97 submitted by the applicants to the first respondent.
12. Annexure A12 True copy of the order No.V/P 608/II/SMI/6500-10500 dated 28.10.98 issued by the first respondent.
13. Annexure A13: True copy of judgement dated 10.12.98 in O.A.1685/98 passed by this Hon'ble Tribunal.
14. Annexure A14: True copy of representation dated 12.12.1998 submitted by the applicants addressed to the second respondent.
15. Annexure A15: True copy of letter No.V/P 612/II/ASM/4500-7000 dated nil -3-99 issued by the second respondent.
16. Annexure A16: True copy of judgment dated 24.2.933 in O.A.313/93 passed by this Hon'ble Tribunal

Respondents' Annexures - Nil
