

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.524/92

Monday, this the 6th day of December, 1993.

SHRI N DHARMADAN, JUDICIAL MEMBER
AND
SHRI S KASIPANDIAN, ADMINISTRATIVE MEMBER

1. KR Manu,
Clerk, Divisional Office,
Commercial Branch, Southern Railway,
Trivandrum-14.
2. V Sreerangan Achari,
Clerk, Divisional Office,
Commercial Branch, Southern Railway,
Trivandrum-14. - Applicants

By Advocate Shri T Ravikumar

Vs.

1. Union of India represented by
General Manager, Southern Railway,
Park Town, Madras.
2. The Chief Personnel Officer,
Southern Railway,
Park Town, Madras.
3. The Chief Commercial Superintendent,
Southern Railway,
Park Town, Madras.
4. The Senior Divisional
Commercial Superintendent,
Southern Railway, Trivandrum.
5. The Diisional Personnel Officer,
Southern Railway, Trivandrum. - Respondents

By Advocate Smt Sumathi Dandapani

O R D E R

N DHARMADAN, JUDICIAL MEMBER

The only question which arises for consideration is, as to whether the applicants transfer to Trivandrum Division is on the administrative ground or on the basis of his earlier request.

2. The applicants came before this Tribunal on an earlier occasion and filed OA-327/91 raising more or less the same

grievances at the time of their transfer and reversion from Senior Clerk in the scale of Rs.1200-2040 to Junior Clerk in the scale of Rs.950-1500. At that time on account of the pendency of the representation, which is produced in this case as Annexure-G, ~~xxxxxxxxxxxxxx~~, we thought that the interest of justice would be met in the case, if we direct a disposal of the same in accordance with law. Accordingly, we directed the first respondent to dispose of that representation within a specified period of two months. Pursuant to the same, the present impugned order Annexure-S was passed on 17.9.1991.

3. In this application, the applicant has challenged Annexures-E, El and S orders passed by the Chief Personnel Officer, Southern Railway. Annex-E & El are transfer involving reversion of the applicants. According to the applicants, in 1985 on account of their personal problems, they submitted request for transfer to Trivandrum Division expressing their willingness to work in a lower post. That was not considered and disposed of in accordance with law. Thereafter, the Railway transferred the applicants as per Annexure-A order dated 18.8.1988 as Senior Clerk to Trivandrum Division. When the applicants approached the authorities pursuant to the order for taking charge, they were directed to report back to Madras. Later, the order was cancelled by Annexure-C proceedings dated 27.10.1988. In all these orders Annexures-A, B, C & D, the applicants have been referred to as 'Senior Clerks' and the applicants asserted that after the cancellation orders, they have never requested for getting a 'compassionate transfer' on personal grounds to Trivandrum Division. Their request as contained in the earlier representation had a natural culmination and their request in Annexure-G was only to dispose of their representation for considering the transfer. According to them, the request does not contain their willingness to work in a lower post. The Railway considered

the request as per the judgement of this Tribunal and passed orders Annexure-S dated 17.9.1991 and in treating it as if the original request is kept alive. It cannot be acted upon in the manner after Annexures-A to D which refer the applicants as Senior Clerk. The subject referred to in these orders of transfer of the applicants as could be seen from the order itself is that transfer from Madras Division to Trivandrum Division was on administrative ground. If as a matter of fact, the transfer as indicated in Annexure-S was on the basis of the request of the applicants on compassionate grounds, the subject would have been stated in the order as a transfer on request or personal grounds in which case the applicants will not be entitled to maintain their seniority as claimed in this application.

4. These orders were also the subject matter in the earlier judgement in OA-327/91. The judgement indicates that these orders were treated as reversion of the applicants from the post of Senior Clerk to Junior Clerk and the reversion was not approved or upheld. However, there was a direction to dispose of their representation. But nowhere there is an indication that the applicants had expressed their willingness to work in a lower post after transfer.

5. The available evidence in this case clearly establish that the applicants were continuing at the relevant time when transfer was ordered as Senior Clerks and their request made in the year 1985 is no more alive for consideration by the appropriate authority. Under these circumstances, the only course open for us is to arrive at the conclusion that the present transfer of the applicants from Madras to Trivandrum is only on administrative ground. This is clear from the impugned orders and the subject referred to therein. This being the position, the statement in the impugned order Annexure-S cannot be supported by the Railway. They also did not produce any request from the applicants other than the

request made by the applicants in 1985 to substantiate their contention that the applicants have made a request prior to the judgement or even after the same for a transfer on compassionate ground or other relevant ground. Since no materials are produced in this behalf, we are not inclined to accept the contention of the respondents.

6. In the result, the impugned orders to the extent of reverting the applicants from the post of Senior Clerk cannot be sustained in the light of the facts and circumstances of the case as explained above. In this view of the matter, we see no merit in the contention raised by the respondents to oppose the application. Accordingly, we/ persuaded to accept the contention of the applicants and allow the O.A.

7. The impugned orders are quashed to the extent indicated above. No costs.

S. Kasipandian

(S KASIPANDIAN)
ADMINISTRATIVE MEMBER

N. Dharmadan
6.12.93

(N DHARMADAN)
JUDICIAL MEMBER

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