

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A No. 562 / 2008

Friday, this the 30th day of January, 2009.

CORAM

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

Chacko Joseph,
Chief Goods Supervisor,
Southern Railway, Palghat.Applicant

(By Advocate Mr TC Govindaswamy)

v.

1. Union of India represented by
The General Manager,
Southern Railway,
Head Quarters Office,
Park Town.P.O.
Chennai-3.
2. The Divisional Railway Manager,
Southern Railway,
Palghat Division, Palghat.
3. The Senior Divisional Commercial Manager,
Southern Railway,
Palghat Division, Palghat.
4. The Senior Divisional Personnel Officer,
Southern Railway,
Palghat Division, Palghat.
5. Shri S Ramanathan,
Deputy Station Manager, Commercial,
Southern Railway,
Palghat Division, Palghat.Respondents

(By Advocate Mr Thomas Mathew Nellimoottil for R.1 to 4.)

This application having been finally heard on 5.1.2009, the Tribunal on 30.1.2009
delivered the following:

ORDER**HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER**

This is the second round of litigation by the applicant. He is aggrieved by the Annexure A-1 transfer order dated 31.3.2008 by which he has been transferred from the post of Chief Goods Supervisor, Southern Railway, Palakkad to Shoranur Junction Station. Before approaching this Tribunal, he had made the Annexure A-4 representation dated 1.4.2008 and the Annexure A-5 representation dated 4.7.2008 requesting for his retention at the present place of posting on the ground of the education of his children and on medical ground of his ailing mother who is undergoing treatment for fracture on both the legs. The said O.A was disposed of by this Tribunal by order dated 30.7.2008 directing the respondents to consider those representations and to arrive at a judicious decision and to keep his transfer in abeyance till then.

2. Pursuant to the aforesaid direction of this Tribunal, the respondents have considered those representations and disposed of them in the following manner:

"Considering all the material on record the application of Mr Joseph, Hon'ble order of the CAT and Sr. DCRM's views above, I am of the opinion that Mr Chacko Joseph must carryout the transfer orders to Shoranur. He has been at Palghat for 20 years which is a long period. There is no reason which will justify the cancellation of his transfer order."

3. According to the applicant, the aforesaid decision of the 2nd respondent is arbitrary, discriminatory and contrary to law and hence violative of the constitutional guarantees enshrined under Articles 14 and 16. It is submitted that there was no exigencies of service warranting the transfer of the applicant from Palakkad to Shoranur and the order of transfer is ultra vires of Annexure A-2 order of the Railway Board No.E(NG)I/87/TR/34/NFIR/JCM/DC dated 27.9.1989 according to which a comprehensive list of sensitive posts for the purpose of periodical transfers have been prepared. He has also relied upon the

Rule 226 and 227 of the Indian Railway Establishment Code. According to Rule 226:

"Ordinarily, a Railway servant shall be employed throughout his service on the Railway or Railway Establishment to which he is posted on first appointment and shall have no claim as of right for transfer to another Railway or another establishment. In the exigencies of service, however, it shall be open to the President to transfer the railway servant to any other department or Railway or Railway Establishment including a project in or out of India. In regard to Group C and Group D Railway servants, the power of the President under this rule in respect of transfer, within India, may be exercised by the General Manager or by a lower authority to whom the power may be de-delegated."

According to Rule 227:

"(a) A competent authority may transfer a Railway servant from one post to another; provided that, except -

(1)on account of inefficiency or misbehaviour, or

(2)on his written requests,

a Railway servant shall not be transferred substantively to or, except in a case of dual charge, appointed to officiate in a post carrying pay than the pay of the permanent post on which he holds a lien, or would hold a lien had his lien not been suspended Rule 241 (FR.14)."

The applicant has alleged that his transfer was purely on dictation of the recognised trade unions and therefore, arbitrary, discriminatory and unconstitutional. He has also stated that the reasons stated by the respondents in the impugned order is also illegal and not tenable. He denied that he has been continuing in the same station for the last 20 years and submitted that he was working in the present office only from 2006 and therefore, he has not completed his tenure. Moreover, the 5th respondent has been continuing in the same station for the last 28 years and he has not touched.

4. In the reply statement filed by the respondents they have given the following dates and places in respect of the applicant from 1981 to 2006:

<i>Sl.No.</i>	<i>Date</i>	<i>Place of Posting</i>
1	05/12/81	Initial appointment as Book Clerk at Shoranur
2	1983	Transferred to Maradur
3	1986	Transfer to FCI Siding at Palghat

<i>Sl.No.</i>	<i>Date</i>	<i>Place of Posting</i>
4	1989	Transferred to Booking Office Palghat Junction.
5	1992	Transferred to Erode for about a month
6	1992	Transferred to Parcel Office, Palghat Junction
7	1995	Transferred to Booking Office at Palghat
8	1997	Promoted as Chief Goods Supervisor and transferred to Palghat Town
9	2004	Transferred to Palghat Junction as Chief Booking Supervisor
10	2006	Transferred to Palghat Junction as Chief Goods Supervisor and continuing as such

According to them, out of 17 years and 3 months from 1991, the applicant was posted in Palakkad Junction Station for more than 12 years. Another about 5 years, he served at Palakkad Town Station which is only 5 KM from Palakkad Jn. Station. During this 17 years period he was residing in the same locality/Panchayat. Now the applicant has been transferred as the Chief Parcel Supervisor at Shoranur Station which is the nearest Junction Station, only 45 KM from Palakkad.

5. Since the only reason shown by the respondents was that the transfer of the applicant was due to the fact that he has completed 20 years of station seniority, the respondents were directed to file an affidavit as to number of persons who have completed station seniority at Palakkad and whether there was any proposal to shift them. Respondents have filed an affidavit stating that there was no Group'C' staff category who have completed 20 years of service at Palakkad. However, by way of rejoinder, the applicant has given the names of following Group'C' personnel in the category of department who have been working for more than 20 years at Palakkad.

(1) P.P.Anandlal, CCI/PG Working from 1980 onwards initially as a commercial Clerk and later as a Commercial Inspector(Group C).

(2) S.Ramanathan, Dy. Station Master Commercial/PGT -do- -do-

(3) P.Krishnan, Commercial Supervisor/ PGT. Working from 1985 onwards.

(4) K.S.Beena, Chief Goods Clerk (Presently in PGT Town) Working from 1984 onwards.

(5) P.Vidya, Chief Parcel Clerk/PGT Working from 1984 onwards.

(6) C.Vijayakumari, PGT Town Working from 1986 onwards.

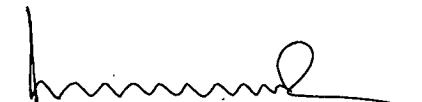
(7) P.Sumu, PGT Town Working from 1986 onwards."

6. The respondents have refuted the aforesaid contention of the applicant. According to them, since Shri P.P.Anand Lal is working in a selected cadre post in different seniority unit (Zonal Seniority), the inclusion of his name in the list itself is unwanted and unsustainable. Moreover, he was selected and posted as Chief Commercial Inspector at Southern Railway Head Quarters Office, Chennai during the year 1986. Afterwards, he was posted as Chief Commercial Inspector, Trivandrum Division. Again, he was posted at Chennai Head Quarters, Coimbatore Section, Palakkad Section, Divisional Office/Palakkad and Palakkad Section on different intervals. Presently, he is working as Chief Commercial Inspector, Palakkad Section consisting of stations between Palakkad Junction to Tirur Station and from Shoranur Junction station to Nilambur Road Station. The applicant is, on the other hand, working in the Goods Shed Office of a station and the nature work of the Commercial Inspector is entirely different. As regards the service particulars of the 5th respondent, Shri S Ramanathan, the respondents have stated that he was working in the Booking Office, Coimbatore from 23.3.1995 and joined the Booking Office, Palakkad on 15.12.1995, Chief Goods Supervisor, Palakkad on 24.4.2002. He has also served as Deputy Station Manager, Palakkad from 26.9.2003 and Chief Goods

Supervisor, Palakkad from 2.4.2008. Similarly, the service particulars of Shri P Krishnan, K.S.Benna, Vidya, C Vijayan and P Suma have also been given. According to the respondents, transfer orders were given to the aforementioned employees as per their request from one station to another as the serving employees have the provision to register their name for transfer within the Division and also for inter-divisional transfer. The applicant had also enjoyed the same facilities. They have again reiterated that no staff is working for more than 20 years at Palakkad Junction station.

7. I heard Shri TC Govindaswamy, the learned counsel for applicant and Shri Thomas Mathew Nellimoottil, learned counsel for respondents 1 to 4. I do not find any discrimination or illegality in transferring the applicant to Shornur Junction after completing 20 years service at Palakkad. In matters of transfers and postings, it is not always possible to follow the station seniority of the employees strictly. It is for the administration to place its employees at various places for the effective manning of the posts under its control. Unless there is mala fide or arbitrariness on the part of the concerned authority, there is hardly any role for the Courts and Tribunals to interfere. This O.A is, therefore, without any merit and it is dismissed. There shall be no order as to costs.

Dated, the 30th January, 2009.



GEORGE PARACKEN
JUDICIAL MEMBER

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