


**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 569 of 2013

FRIDAY, this the 20th day of September, 2013

C O R A M :

HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

1. K.Abdul Razik,
S/o.Kunhamadkutty,
Working as Loco Pilot (Goods),
Office of the Chief Crew Controller,
Broadgauge, Southern Railway, Thiruvottiyoor.
Residing at Plot No.4, Door No.8,
Pullayar Kovil (St.), Ganapathi Nagar,
Ayapakkom P.O., Annanore.
 2. M.Manoj Sreedharan,
S/o.Sreedharan,
Working as Loco Pilot (Goods),
Office of the Crew Controller,
Southern Railway, Madras.
Residing at Poorathingal House,
P.O.Pallur, Kondayoor, Thrissur, Kerala.
 3. P.Vinodkumar,
S/o. P.Narayanan,
Working as Loco Pilot Gr.I, (Shunting),
Office of the Chief Crew Controller,
Broadgauge, Southern Railway, Chennai.
Residing at Ambadi, Near Model Polytechnic,
Kalliasseri P.O., Kannur - 670 562.
 4. N.P. Shyamraj,
S/o.Dharmarajan,
Working as Loco Pilot (Goods),
Office of the Chief Crew Controller,
Southern Railway, Jolarpettai.
Residing at Devaswam Padam,
P.O.Olavanna, Calicut - 673 025.
 5. Biju C.K.,
S/o.C.Balakrishnan,
Working as Loco Pilot Gr.II. (Shunting),
Office of the Chief Crew Controller,
Southern Railway, Jolarpettai.
Residing at 12/09, K.V.N. Kuppammal Illam,
Mosque Street, Edayampatti, Jolarpettai.
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6. Disheed Parol,
S/o. P. Chandran,
Working as Loco Pilot Gr.II. (Shunting),
Office of the Chief Crew Controller,
Southern Railway, Jolarpettai,
Residing at Railway Quarters 552-A,
Jolarpettai - 635 851
 7. R.Janardhanan,
S/o.M.Rajan,
Working as Loco Pilot (Goods),
Office of the Chief Crew Controller,
Southern Railway, Jolarpettai.
Residing at Tattamanagalam PO, Palakkad.
 8. K.N.Rajesh,
S/o. R.T. Raghavan,
Working as Senior Assistant Loco Pilot,
Office of the Chief Crew Controller,
Jolarpettai, Southern Railway.
Residing at Padukkakaniyil House,
Ayipuzha, Kannur.
 9. K. Rajesh,
S/o. K. Damodharan,
Working as Senior Assistant Loco Pilot,
Office of the Chief Crew Controller,
Jolarpettai, Southern Railway,
Residing at Kuttiery House, Parakadavu,
Kannur.
 10. Manoj Kumar T.M,
S/o. Manikkan T.V,
Working as Senior Assistant Loco Pilot,
Office of the Chief Crew Controller,
Jolarpettai, Southern Railway,
Residing at Theliyara House,
Mucheri Post, Kongad, , Palakkad.
- ...Applicants.

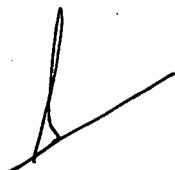
(By Advocate Mr. Varkey & Martin)

Versus

1. The Chief Personnel Officer,
Southern Railway, Park Town P.O,
Chennai : 600 003
2. The Senior Divisional Personnel Officer,
Southern Railway, Madras Division,
Chennai : 600 003
3. The Senior Divisional Personnel Officer,
Southern Railway, Palghat Division,
Palghat : 692 014

.... Respondents.

(By Advocate Mr. Thomas Mathew Nellimoottil)



This application having been heard on 11.09.13, the Tribunal on 20-09-13 delivered the following :-


ORDER

HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER


This O.A has been filed by the applicant for a direction to the respondents to consider them for appointment by way of inter divisional transfer as Assistant Loco Pilots to the Palghat Division on the basis of their position in the priority register maintained in the Palghat Division.

2. The applicants were appointed as Assistant Loco Pilots in the Madras Division in the years 1999, 2001, 2003 and 2007. Their applications were forwarded to the Palghat Division for registration after due formalities in the years 2007 and 2008. There are 42 registrants including the applicants who have registered their names for transfer to the Palghat Division and waiting for transfer.

3. The applicants contended that the proposed action of the respondents to fill up the entire vacancies of the Palghat Division by registrants belonging to the Salem Division ignoring the priority position of the applicants is highly arbitrary and would cause substantial prejudice to them. The applicants are entitled to be considered, transferred and appointed against the direct recruitment quota vacancies of Assistant Loco Pilot in the Palghat Division in preference to those who had registered later than they. The action of the respondents in filling up the direct recruitment vacancies in Palghat Division ignoring the applicants who were the applicants in O.A. No. 686/2008, is highly arbitrary.




4. The respondents submitted that the applicants do not have any indefeasible right for claiming transfer. There is also no cause of action for the applicants as none of their rights has been infringed. However, it is provided that request from Railway servants in Group 'C' and 'D' for transfer from one Railway to another on grounds of special cases of hardship may be considered on the basis of bottom seniority. On the formation of Salem Division on 01.11.2007, it was decided that such of those employees who have registered for transfer to the stations which fall in the territorial jurisdiction of the Palghat Division will be provided with lien in the Palghat Division and vice versa. However, their transfers would be effected on 1:1 basis, i.e. when one employee in the same category joins in the Salem Division, an employee whose lien is provided in the Palghat Division is to be relieved and vice versa. Therefore, the cases of the lien holders are to be considered for transfer to Palghat prior to the registrants of inter divisional transfers. As on date, 27 vacancies exist in the category of Assistant Loco Pilot taking into account the higher grade vacancies also. Inter Divisional transfers are to be carried out against corresponding posts, i.e. unreserved employees to be adjusted against unreserved vacancies and reserved employees to be adjusted against reserved vacancies. There is a shortfall of 64 SC/ST in the running cadre of the Palghat Division. The applicants are falling in the unreserved category. They cannot be considered for transfer till vacancies in the unreserved category arise. They have to wait for their turn. They have no case that any of their juniors has been transferred to the Palghat Division overlooking their claim. Attempt is always made to ensure that the request for transfers of any individual is not hampered on account of



different mode of recruitment. The Chief Personnel Officer, Southern Railway, Chennai, vide his D.O. letter dated 11.03.2013, has advised the Divisional Railway Manager, Palghat, to transfer 50 Assistant Loco Pilots to the Trivandrum Division out of which 16 are from the Palghat Division so that vacancies may arise there to accommodate inter divisional transferees. In view of a large number of requests for transfer to the Palghat Division from the Salem Division, equitable distribution has to be ensured. Due to existence of large number of vacancies in the running category of Loco Pilots, the competent authority has decided to effect the transfers in a phased manner considering the vacancy position of the entire Southern Railway.

5. I have heard Mr. Martin G. Thottan, learned counsel for the applicant and Mr. Thomas Mathew Nellimoottil, learned counsel for the respondents and perused the records.

6. The respondents have taken into account the large number of requests for inter divisional transfer in the Southern Railway as a whole and especially in the Salem and Palghat Divisions in the wake of formation of the Salem Division on 01.11.2007 and the shortfall of SC/ST categories. Their approach is to ensure that the request for transfer of any individual is not hampered on account of different mode of recruitment. They are keen on ensuring equitable distribution of vacancies amongst the aspirants for inter divisional transfer. They have decided to effect transfer in a phased manner considering the vacancy position of the entire Southern Railway. They also take into account that the direct recruits are to be given adequate training to man the post properly and all the direct recruits cannot be posted in a



Division at a time till such time the new recruits gain some experience in the post. They have no intention to bypass the priority register maintained in the Palghat Division in the matter of inter divisional transfer. The applicants have no case that any of their juniors is transferred to the Palghat Division. The applicants fall in the unreserved category.

7. In the above factual matrix, it is only fair and just to dispose of this O.A with a direction to the respondents to consider the applicants for appointment by inter divisional transfer as Assistant Loco Pilots to the Palghat Division in the vacancies, if any, existing now and in the vacancies that may arise in future in the direct recruitment quota on the basis of their position in the priority register maintained in the Palghat Division without prejudice their right to raise the seniority issue, in case the need arises, for the same. Ordered accordingly.

8. The O.A is disposed of as above with no order as to costs.

(Dated, the 20th September, 2013)



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER

cvr.