

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.572/03

Wednesday this the 19th day of November 2003

C O R A M :

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR. H.P.DAS, ADMINISTRATIVE MEMBER

V.T.Dominic
S/o.V.D.Thomas,
A.C.Mechanic Grade II,
Senior Section Engineer's Office,
Southern Railway, Mangalore.

Applicant

(By Advocate Mr.Grashious Kuriakose)

Versus

1. Union of India represented by
the Secretary,
Department of Railways,
New Delhi.
2. Divisional Personal Officer
Southern Railway, Palghat.
3. Divisional Railway Manager
Southern Railway, Palghat.

Respondents

(By Advocate Mr.P.Haridas)

This application having been heard on 19th November 2003
the Tribunal on the same day delivered the following :

O R D E R

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

The applicant while working as AC Mechanic Grade III was by Annexure A-1 order dated 19.2.02 promoted as AC Mechanic Grade II in the place of Krishnamoorthy who was promoted as AC Mechanic Grade I. His grievance is that without issuing any notice to him and despite the fact that there was vacancy to accomodate him the respondents have reverted him to the post of AC Mechanic Grade III by the impugned order dated 26.5.2003. It is alleged in the application that even at the time when the applicant was promoted as AC Mechanic Grade II there were two other vacancies and since

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only Krishnamoorthy has been reverted for the post of AC Mechanic Grade I to AC Mechanic Grade II, the applicant could have been accommodated in that post. The applicant therefore seek to have the impugned order set aside to the extent it affects him, for a declaration that he is not liable to be reverted and for a direction to the respondents to retain the applicant in the post of AC Mechanic Grade II by creating supernumerary post if necessary.

2. The respondents in their reply statement and additional reply statement seek to justify the impugned action on the ground that reversion of the applicant was inevitable consequence of Krishnamoorthy being reverted as AC Mechanic Grade II on re-induction of Balasubramaniam in the post of AC Mechanic Grade I. Since there were only three vacancies in AC Mechanic Grade II, two reserved for candidates belonging to Schedule Caste, the applicant had to be reverted to accommodate Krishnamoorthy, contend the respondents.

3. We have gone through the pleadings and materials on record and have heard Shri. Grashious Kuriakose, learned counsel for the applicant and Shri. P. Haridas, learned counsel for the respondents. Shri. Grashious Kuriakose with considerable tenacity argued that there was no indication in Annexure A-1 order that vacancies against which K. Arumugham and V. K. Krishnamoorthy were promoted were temporary vacancies, that as admitted by the respondents in their first reply statement two vacancies arose due to the death of Balakrishnan.M. and K. Pradeep, the contention of the respondents that there is no

vacancy to accomodate the applicant cannot be accepted and that the respondents should be directed to retain the applicant in the post of AC Mechanic Grade II. Learned counsel for the respondents on the other hand clarified that the death of Balakrishnan.M occurred on 6.11.1998 and that of K.Pradeep occurred on 31.3.2001 and vacancies which arose on account of their death were filled by appointment of B.Choma, belonging to Schedule Tribe on 21.5.2000 and V.Rajendran, belonging to Schedule Caste on 5.5.2001 and that as the two other vacancies in AC Mechanic Grade II being reserved for Schedule Caste candidates the applicant had necessarily to be reverted as AC Mechanic Grade III to accomodate Krishnamoorthy on his reversion. From the details given in the reply statement we find no reason to suspect the correctness of vacancy position. The arguement of learned counsel that there has been a failure on the part of the respondents to indicate that the vacancy of AC Mechanic Grade I to which Krishnamoorthy was promoted was temporary is correct. However that does not improve the case of the applicant. The applicant had to be reverted because the two posts of AC Mechanic Grade II being reserved to be filled by members of the Schedule Caste they cannot be filled up by appointing a person belonging to general category. The only general category vacancy in AC Mechanic Grade II has now been filled by reversion of Krishnamoorthy to that grade. Under these circumstances we do not find any reason to fault the action of the respondents in reverting the applicant.

4. In the light of what is stated above we do not find merit in the application and therefore we dismiss the same. However we

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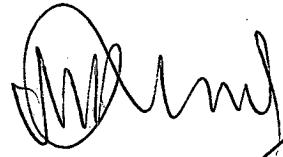
expect the respondents to consider the promotion of the applicant
soon
as long as a vacancy in AC Mechanic Grade II would arise. No
costs.

(Dated the 19th day of November 2003)



H.P.DAS
ADMINISTRATIVE MEMBER

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A.V. HARIDASAN
VICE CHAIRMAN