

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 574 199 0
T. A. No.

DATE OF DECISION 29.8.91

R. Vasudevan Applicant (s)

Mr. P. Sivan Pillai Advocate for the Applicant (s)

Versus

Union of India through the Respondent (s)
General Manager, Southern Railway
Madras-3 and others

Smt. Sumathi Dandapani Advocate for the Respondent (s) 1 to 5

CORAM:

The Hon'ble Mr. N. DHARMADAN, JUDICIAL MEMBER

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement? *ye*
2. To be referred to the Reporter or not? *NA*
3. Whether their Lordships wish to see the fair copy of the Judgement? *NA*
4. To be circulated to all Benches of the Tribunal? *NA*

JUDGEMENT

MR. N. DHARMADAN, JUDICIAL MEMBER

The applicant who is working as an Assistant Station Master at Shencotta Railway Station in the Madurai Division seeks to quash Annexure A-1 inter-divisional transfer orders in respect of some of the juniors of the applicant who are respondents 6 to 11 and Annexure A-2 order of the Divisional Personnel Officer rejecting the applicant's request for inter-divisional transfer.

2. The applicant while working in Mysore Division of the Southern Railway obtained an inter-divisional transfer to Madurai Division on 28.1.1982 on loss of seniority.

Thereafter he registered his name pursuant to Annexure A-3 Railway Board's letter No. E(NG)11/71/TR/14 dated 1.10.71 for getting a further inter-divisional transfer to his native place within the Trivandrum Division. His registration was in 1984. Along with the applicant, the following persons were also registered for getting similar relief:

1. P. C. Thampi,
2. A K Gopinathan
3. K. Sureshkumar
4. R. Vasudevan
5. M. Balachandran
6. John Varghese
7. M. Padmanabhan
8. J. Gangadharan Nair
9. G. Sasidharan Pillai
10. Syed Ibrahim
11. V. N. Ravi
12. C. Harsh Kumar.

But some of the persons who registered subsequent to the applicant were given the benefit of transfer to Trivandrum Division by passing Annexure A-1 order dated 28.2.1989.

Aggrieved by the same the applicant submitted representation dated 15.3.89 through proper channel. This was rejected

by Annexure A-2 dated 13.7.89 stating that his request *for*

of inter-divisional transfer to TVC Division has not been agreed to by DOS/TVC. Hence, he was requested to make a further registration for getting an inter-divisional transfer to Trivandrum Division. The applicant challenges both Annexure A-1 and A-2 mainly on the ground that the refusal to give him inter-divisional transfer is discriminatory and violative of principles of Article 14 and 15 of the Constitution of India.

3. In the counter affidavit the respondents have submitted that the applicant has registered his request for inter-divisional transfer on 20.6.1984 and his registration No. is 49. Respondents 6 to 11 ~~xxxx~~ though registered after the registration of the applicant were granted the transfer but the applicant was denied the same because of some minor punishments which were considered by the Screening Committee and the Committee did not recommend the transfer of the applicant. The applicant has no legal right to get transfer as a matter of right.

4. The applicant filed rejoinder and produced Annexure A-4 to show that the suspension referred to in the counter affidavit from 31.1.1984 to 26.8.84 was treated as duty by the Railway as per order dated 4.2.1986. The ^{Aliv b} only instance which can be treated as a punishment is the barring of six months' increment, without any effect of recurring the same, for a minor lapse. This cannot be taken as a ground for denying the inter-divisional transfer of the applicant particularly when six persons namely M/s. M. Gopinathan, Sreekantan Nair, K. AjithKumar S. Venugopal, Roy Thomas and E. K. Antony ^b ~~who~~ were given the benefit of inter-divisional transfer though these persons were involved in minor offences ^{and petty}. ^b

^b

4. After hearing the arguments I am of the view that since Railway has adopted a policy of granting inter-divisional transfer on registration in the light of the Board's letter dated 1.10.1971 (Annexure A-3) they are bound to follow the principles of registration mentioned in the aforesaid letter. ^{uniformly and grant transfers without any special} This letter does not contemplate ^{the} constitution of a Screening Committee for the purpose of screening persons for transfer. However, the Railway have set up a Committee for assessing the merit of the persons to find out their eligibility having regard to the facts and circumstances of each case in the interest of the Railway. But a uniform pattern should be adopted in making the selection. ^{This is not satisfied in this case. 2} The applicant has pointed out six persons who were given inter-divisional transfer notwithstanding the facts that some minor punishments were imposed on them. The learned counsel for the respondents on the basis of the instructions attempted to submit before me that the punishment imposed on some of the persons are lesser in nature when compared with the punishment imposed on the applicant. On further examination it is found that S. Venugopal and the applicant are equally placed in the matter of imposition of punishment.

5. The applicant has registered his name in 1984 and he is qualified for getting an inter-divisional transfer. The punishment of barring of increment was effected w.e.f.

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1.8.1986 being six months. A person having a similar punishment was considered by the Screening Committee and he was given inter-divisional transfer by the Railway. In the light of these facts, there is no explanation why the applicant was denied the same benefit.

6. Having regard to the facts and circumstances of case I am of the view that the applicant is entitled to be considered for inter-divisional transfer/^{to} Trivandrum Division based on his registration in 1984. In this view of the matter Annexure A-2 is liable to be quashed. Accordingly I quash the same and direct respondents 3 & 4 to consider the applicant for inter-divisional transfer to Trivandrum Division based on his registration in 1984 as expeditiously as possible at any rate within a period of two months from the date of receipt of a copy of this judgment. The respondents will also fix the seniority of the applicant vis-a-vis respondents 6 to 11 in the Trivandrum Division *not withstanding the order.*

7. The application is disposed of as above. There will be no order as to costs.

N. Dharmadan
(N. DHARMADAN)
JUDICIAL MEMBER
29.8.91

kmm