

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No.
~~XXXXXX~~

575/

1989

DATE OF DECISION 20.7.1990

C. Antony Applicant (s)

Shri V. Ramachandran Advocate for the Applicant (s)

Versus

Deputy Chief Accounts Officer/ Respondent (s)
General, Southern Railway, Madras-3
and 4 others

M/s. M. C. Cherian Advocate for the Respondent (s)
Saramma Cherian

CORAM:

The Hon'ble Mr. N. V. KRISHNAN, ADMINISTRATIVE MEMBER

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

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal? *No*

JUDGEMENT

HON'BLE SHRI N. DHARMADAN, JUDICIAL MEMBER

The applicant is a Travelling Inspector of Accounts (hereinafter referred to as 'TIA') of Southern Railway. He has filed this application claiming seniority as TIA from 23.5.1985 and fixing the same above the 5th respondent and others in the Southern Railway with all attendant benefits. He has also prayed for quashing Annexures C, G and H, order of confirmation of TIAs in the grade of Rs. 1640-2900, letter of Deputy C.A.O/G dated 29.7.87 disposing of his representation and office order issued by F.A and C.A.O/MAS dated 16.1.1989 respectively.

2. The facts in a nut shell: The applicant joined the South Central Railway as Accounts Clerk on 9.10.1980. He passed Appendix III IREM examination held in 1983 for being promoted as TIA(Accounts). While continuing in South Central Railway he volunteered for a transfer over to Southern Railway for getting a posting in the accounts branch. Accordingly he was transferred to Southern Railway and posted for training in station inspection work as stated in Annexure-A. Thereafter he was provisionally promoted to officiate as TIA in the scale of Rs.500-900 as per Annexure-B. But when Annexure-C confirmation order was issued with effect from 15.4.87 the applicant was shown as item No.14 mentioning his date of confirmation as 19.3.1987 while persons having rank No.1 to 13 have been confirmed with effect from 21.10.1986. According to the applicant they are his juniors and there was no explanation for the denial of the grade of TIA to the applicant from 23.5.1985 to 19.3.1987. The respondents also issued Annexure-D office order No.52/1987 stating that he has been transferred to Southern Railway on loan basis giving bottom seniority. This is also illegal. The applicant submitted representations Annexure E and F against Annexures C & D. He received Annexure-G letter dated 29.7.1987 from the F.A & C.A.O, Madras upholding Annexures C and D. Hence he has filed this application for quashing the above Annexures and fixing his seniority with effect from 23.5.85.

3. Respondents 1 to 4 have filed a detailed counter affidavit. They have raised preliminary objections such as the application is barred by limitation, all necessary parties have not been impleaded and the applicant has no genuine grievance at this time.

4. Having heard the counsel on both sides and after examining the matter in detail, we are of the opinion that the applicant has no case on merits. So we are not dealing with the preliminary objections.

5. The applicant while working in the South Central Railway, which is his parent Division, appeared for the Appendix III IREM examination in 1983. He passed the same and qualified for being promoted as TIA. Since he did not get promotion, for ^{better} prospects in other railway Division, he opted to come to the Southern Railway. Naturally he can only expect a bottom position in the matter of seniority when he goes to a new Division on voluntary basis. So when he came to the Southern Railway he was issued office order No.108/1985 dated 6.5.1985(Ext R1(b)). It reads as follows:-

" The services of the following staff of this Railway who have qualified in Appendix III IREM in TIA's Group and who have volunteered to go on temporary transfer to Southern Railway are placed at the disposal of FA&CAO/Southern Railway, Madras.

They will be considered for promotion as TIA on Southern Railway on loan basis and as and when qualified staff become available on that Railway they will be repatriated to S.C.Railway. They

may be relieved immediately with instructions to report to FA&CAO/Southern Railway, Madras for further postings:

1. Shri C. Anthony, C.G.I, Sr.DAO/GTL
2. Shri M. Satyanarayana Rao, C.G.I, Sr.DAVO/GTL.
3. Shri P. Venugopala Rao, C.G.I, Sr.DAO/BG/SC.

Note: 1. Their lien will continue to be maintained on S.C Railway.
2. They are liable to be posted at any station on Southern Railway without Railway Quarters.

This has the approval of competent authority."

6. Thereafter when he reported for duty in the new Division another office order, (Ext.R1(c)) No.G179/HQA/A/cs/117 dated 23.5.1985 prescribing following three conditions, was issued:-

- " 1) They are liable to be posted to any station on Southern Railway. No Railway Quarters will be provided.
- 2) They will be repatriated to their parent Railway after qualified hands become available on this Railway.
- 3) They are eligible for higher officiating pay from the date they assume charge of the higher post provided they officiate continuously for a period exceeding 21 days."

7. Annexure R1(d), the application form for inter-Railway transfer, was filled up by the applicant for getting inter-Divisional transfer to Southern Railway. His request was for a transfer to C.G Grade II in the office of the Southern Railway, Madras, though he has indicated that he has continuous officiation as TIA in the scale of Rs.500-900. Another office order dated 2.3.1987(Ext R1(f)) shows that while posting the applicant as TIA on loan arrangement in Southern Railway he has been notionally reverted as C.G II and transferred to Southern Railway

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only on bottom seniority basis. Ext.R1(g) is yet another office order No.G/179/HQA/A/cs/213 dated 13.4.1987 which clinches the issue. It shows beyond any doubt that the applicant has been absorbed as TIA in Southern Railway from 19.3.1987 on his own request giving only bottom seniority in that Division. This is further confirmed by Ext.R1(h). These office orders produced along with the counter affidavit also show that the applicant can claim his seniority as TIA in Southern Railway from 19.3.1987. From these documents, which remain unchallenged, we can come to the conclusion that the applicant is entitled to seniority in Southern Railway as TIA from 19.3.1987, which has been duly granted to the applicant as indicated in the impugned confirmation proceedings Annexure-C.

8. The applicant who started his official career in South Central Railway should have continued in that Division even after passing the Appendix III IREM examination aspiring his promotion chances and other service benefits in that Division. But he was not satisfied with the same. He has chosen to be grafted to other Division on his own volition agreeing to the bottom seniority. He accepted the appointment in this new Division agreeing to the conditions mentioned above in the Exts.R1(b) and R1(c). Now he cannot be allowed to turn round and claim seniority from 23.5.85 in the

new Division especially when all the other thirteen persons shown in Annexure-C are not parties in this proceedings. His claim of seniority over 5th respondent has no basis because the applicant came to Southern Railway accepting bottom seniority below the 5th respondent who was working in that Division from the very beginning of his service and promoted as TIA from 30.9.85(Ext.R1(a)).

9. Having regard to the facts and circumstances of this case, we are fully satisfied that the applicant has no case on merits for revision of seniority as claimed by him in this application which only deserves to be dismissed. Accordingly we dismiss the same. There will be no order as to costs.


(N.DHARMADAN)
JUDICIAL MEMBER

20.7.90


(N.V KRISHNAN)
ADMINISTRATIVE MEMBER

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM
R.A. 113/90 in
O.A. No. 575/89
T.A. No.

199

DATE OF DECISION 30.10.90

C. Antony Applicant (s)

Mr. V. Ramachandran Advocate for the Applicant (s)

Versus

Deputy Chief Accounts Officer, Respondent (s)
Madras-3 and others

Mr. M. C. Cherian Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. N.V. Krishnan, Administrative Member

The Hon'ble Mr. N. Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. To be circulated to all Benches of the Tribunal? No

JUDGEMENT


HON'BLE SHRI N. DHARMADAN, JUDICIAL MEMBER

The applicant in the O.A. has filed this Review Application mainly on the ground that the Tribunal committed an error in having relied on Ext. R-1(d) for rejecting the contentions advanced by him in this application. According to him Ext. R-1(d) became obsolete when he completed eighteen months of continuous service and that it is not in conformity with para 312 of Indian Railway Establishment Manual.

2. Ext. R-1(d) is the application form for getting inter-divisional transfer which was filled up by the applicant requesting for a transfer even to Southern Railway. The decision in this case was not taken solely relying on this document. While dealing with the issues in this connection we have adverted to Ext. R-1(b), R-1(c), R-1(F), R-1(G) and R-1(h) and came to the conclusion that the applicant's claim

for seniority as Travelling Inspector of Accounts from 19.3.87 alone can be sustained. Accordingly we dismissed the Original Application. There is no mistake or error in the judgment. No other circumstances or ground was raised for interfering in this judgment. Hence, it is only to be dismissed as devoid of any substance. We do so.


(N. Dharmadan) 30.7.90.
Judicial Member


(N. V. Krishnan)
Administrative Member

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