

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.584/04

Monday this the 27th day of September 2004

C O R A M :

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

T.N.Prakasan,
Gate Keeper (Senior Grade),
Panampilly Gate, Enrakulam Junction.
Residing at : Thaivelikkakath,
Vaduthala, Kochi - 23.

Applicant

(By Advocate Mr.P.Vijayakumar)

Versus

1. The Divisional Railway Manager,
Southern Railway, Thiruvananthapuram.
2. The Senior Divisional Engineer,
Southern Railway, Thiruvananthapuram.
3. Assistant Engineer,
Engineering Department,
Southern Railway, Ernakulam South.
4. The Section Engineer,
Engineering Department,
Southern Railway, Ernakulam South.

Respondents

(By Advocate Mr.Thomas Mathew Nellimootttil)

This application having been heard on 27th September 2004
the Tribunal on the same day delivered the following :

O R D E R

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

The applicant who was working as Gate Keeper (Senior Grade) at Panampilly Gate which is a B Class Gate, roster hour of which is 48 hours a week, was replaced by others and therefore apprehending that he would be posted to a inconvenient C Class Gate involving 72 hours of work which is likely to jeopardise his domestic life the applicant submitted Annexure A-4 representation seeking permission to continue at Panampilly Gate or in the alternative to post him at Vaduthala Gate or any Gate involving 48 hours duty a week. As his representation was not considered and disposed of and applicant apprehending his posting to a

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inconvenient Gate he filed O.A.309/04. The said O.A. was disposed of by order dated 27.4.2004 directing the 1st respondent to consider the Annexure A-4 representation of the applicant and to give him an appropriate reply. The 1st respondent has on consideration of the applicant's representation issued Annexure A-6 order informing him that it would not be possible to allow the applicant to continue in Panampilly Gate as that Gate has been transferred to Traffic Department, that it was not possible to post him to Vaduthala Gate as that Gate falls under a different seniority unit and that posting to different Gates involving different hours of employment is made in accordance with the availability of vacancies and administrative requirement and that no employee has a right to insist on a particular posting. The applicant submitted another representation Annexure A-7 and immediately thereafter filed this application for a declaration that the applicant is not liable to be posted against a Class C Gate involving 72 hours work a week, that he is entitled to be posted at a Class B Gate or against a corresponding or appropriate post with 8 hours roster a day and for a direction to the respondents to restore the applicant the post of Gate Keeper at Panampilly Gate or in the alternative give him a posting as a Class B Gate Keeper or to dispose of Annexure A-7 representation.

2. Opposing the admission of the application the counsel of the respondents have filed a statement indicating that the applicant instead of reporting to the controlling officer for posting has applied for leave up to 5.4.2004 and remained absent thereafter without leave and that the applicant can be given a posting on his reporting on a Gate which is available.

3. I have carefully gone through the pleadings and all the materials on record and have heard Shri.P.Vijayakumar learned counsel of the applicant and Shri.Thomas Mathew Nellimoottil learned counsel of the respondents. Shri.P.Vijayakumar has not been able to show any rule or instruction which would enable the applicant to claim that he is entitled to be retained in Panampilly Gate or to be deployed only to a Class B Gate involving only 48 hours of work a week. It appears that the Gates are classified according to the frequencies of train traffic and seniority or length of service is not a criterion in posting to various classes of Gates. The transfer of the Panampilly Gate to Traffic Department has necessitated the movement of applicant therefrom and once the applicant was displaced he should have immediately reported to the controlling officer. He has not done that. The Railway administration cannot be faulted for shifting the applicant from Panampilly Gate since the Gate has been transferred to Traffic Department from Engineering Department to which the applicant belonged. We do not find any malafide or violation of rules in shifting the applicant. On transfer of Panampilly Gate to the Traffic Department the applicant should have reported for duty to his controlling officer who would have given him a posting taking into account the availability of vacancies.

4. In the result I do not find that the applicant is entitled to any relief claimed. While declining to grant the reliefs sought by the applicant, the applicant is directed to report for duty to his controlling officer within a week and the respondents are directed to give him an appropriate posting taking into

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account the administrative exigencies as also the personal problems of the applicant. The O.A. is disposed of accordingly.

(Dated the 27th day of September 2004)



A.V.HARIDASAN
VICE CHAIRMAN

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