

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.591/07

Wednesday this the 12th day of March 2008

C O R A M :

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

K.K.Gopalakrishnan,
S/o.late K.R.Kanku,
Driver, Office of the Deputy Chief Engineer/
Construction/Southern Railway, Ernakulam Jn.
Permanent Address : Koottingal House,
Madathi Moola, Nedumbasseri P.O.,
Ernakulam District.

...Applicant

(By Advocate Mr.T.C.Govindaswamy)

Versus

1. Union of India represented by General Manager,
Southern Railway, Headquarters Office,
Park Town, Chennai – 3.
2. The Chief Administrative Officer,
Construction/Southern Railway,
Egmore, Chennai – 8.
3. The Deputy Chief Engineer,
Construction/Southern Railway,
Ernakulam Jn, Ernakulam, Cochin – 682 016.
4. Sri.Ouseph,
Motor Vehicle Driver,
Southern Railway,
Office of the Deputy Chief Engineer/
Construction/Ernakulam Jn. Ernakulam,
Cochin – 682 016.

...Respondents


(By Advocate Mr.Thomas Mathew Nellimoottil [R1-3])

This application having been heard on 12th March 2008 the Tribunal on the same day delivered the following :-

ORDER

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

The applicant is aggrieved by Annexure A-1 transfer order dated 20.9.2007 by which he was transferred from Ernakulam to



.2.

Trivandrum. The facts of the case in brief are that there are three Motor Vehicle Drivers working under the Deputy Chief Engineer, Construction, Ernakulam. One is the applicant (Shri.K.K.Gopalakrishnan), second is one Shri.Nandakumar and the third one is the 4th respondent (Shri.Ouseph). Since there was only one vehicle available in the Ernakulam Office and there were shortage of Drivers in the Trivandrum Office, the respondents have initially transferred Shri.Ouseph to the Trivandrum Office vide order No.194/2007 dated 30.7.2007. On receipt of the said transfer order he made a representation to the respondents to cancel the same stating that from April, 1980 to June, 2002 he has been working in the Construction Office at Bangalore and it was on his request that he was transferred to Ernakulam Office. He has also submitted in his representation that his father is aged and sick and his wife had undergone three major operations. Further, one of his child is studying in Plus Two and the other one is in 8th Standard and that both are girls. The respondents, taking into consideration of reasons stated by him, particularly the facts that one his daughter was studying in Plus Two and that he was transferred to Ernakulam Office only in the year 2002 after having put in 22 years of service at Bangalore, modified the transfer order dated 30.7.2007 and issued the impugned order dated 20.9.2007 transferring the applicant in his place.

2. The contention of the applicant is that the impugned order has been issued to favour the 4th respondent. He has also stated that he has been transferred to Trivandrum Division along with the post because of the surplusage of staff in the Ernakulam Office and in that event only the junior most person should have been transferred.



.3.

3. I have perused the departmental files made available by Shri.Thomas Mathew Nellimoottil, counsel for the respondents. It is seen from the records that there is a pressing need for a Driver in Trivandrum Office which is using hired vehicles in the absence of regularly appointed Drivers. Both the applicant and Shri.Nandakumar have been posted in Ernakulam Office for quite some time. As it is a well settled that transfer is an incident of service and the right of the employee in such cases is limited to making a representation, so that the respondents could consider the same and take a view in such cases. In this case also when the 4th respondent was transferred, he expressed his difficulties, particularly, the fact that his daughter is studying in Plus Two. Accordingly, the respondents have considered his request favourably and decided to transfer the applicant. When a transfer is to be made, one person has to be dislocated and it is inevitable. Moreover, transfers are not made on the basis of seniority of the employees. It is for the Department to decide which employee has to be transferred and where. The departmental record also shows that the transfer is not on account of any surplusage of staff in the Ernakulam office. The transfer has been ordered purely in public interest and in the exigencies of service. In this view of the matter, I do not find any merit in the O.A and, therefore, the same is dismissed. There shall be no order as to costs.

(Dated this the 12th day of March 2008)


GEORGE PARACKEN
JUDICIAL MEMBER

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