

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO.617/2001

Monday this the 23rd day of July, 2001

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

1. K.A.Priya W/o M.R.Nandakumar,
Senior Clerk O/O Section Engineer (Electrical)
Southern Railway, Shoranur,
residing at Kallatuvalappil House,
Peringandoor, Trichur.680 581.
 2. T.Vijayalakshmi, W/o Ramanathan,
Senior Clerk (Electrical Branch)
Traction Distribution,
Divisional Office,
Southern Railway, Palghat residing at
296A North Colony, Palghat.9.
 3. A.C.Jayachandran, S/o P.C.Rarichan,
Senior Clerk (Electrical Branch)
Electrical Loco Shed,
Southern Railway, Erode,
Permanent address: Ammayara Chawl,
Kavilumpara, Kozhikode.
 4. M.K.Suresh, S/o M.K.Kandan,
Senior Clerk (Electrical Branch)
Divisional Office,
Southern Railway, Palghat
Permanent address: Maniyantharayil House,
Panangad PO,Ernakulam..
-Applicants

(By Advocate Mr. T.C.Govindaswamy)

V.

1. Union of India represented by
the General Manager,
Southern Railway, Headquarters Office,
Park Town PO, Madras.3.
2. The Divisional Railway Manager,
Southern Railway, Palghat Division
Palghat.
3. The Additional Divisional Railway Manager,
Southern Railway, Palghat Division,
Palghat.
4. The Senior Divisional Personnel Officer,
Southern Railway, Palghat Division,
Palghat.

5. Ms.K.T.Geetha,
Senior Clerk (Electrical Branch)
Traction Distribution,
Divisional Office, Southern Railway,
Palghat.Respondents

(By Advocate Mr. Mathews J Nedumpara)

The application (for R. to 4) having been heard on 23.7.2001, the Tribunal on the same day delivered the following:

O R D E R

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

The applicants four in number who are Senior Clerks in the Electrical Branch of Southern Railway, Palakkad have jointly filed this application challenging the order dated 24.11.99 (A2) by which the 5th respondent was on mutual transfer with Shri S.K.Sanil Kumar who was working as Head Clerk in the Personnel Branch of Palakkad Division of Southern Railway was posted in the Electrical Branch. Even before the A2 order transferring the 5th respondent to Electrical Branch was issued it appears that all the four applicants had made a representation against it (A.1) but inspite of that the official respondents transferred the 5th respondent to the Electrical Branch of the Southern Railway, Palakkad Division. It is stated that the applicants went on making representations against it and ultimately they found that the 5th respondent has been assigned higher position in the Seniority above the applicants in the provisional gradation list of Senior Clerks in the Electrical Department of Southern Railway, Palakkad Division circulated by letter dated 16.2.2001. The applicants have made their representations against the placement in the provisional gradation list. However, the applicants have now filed this

application and seeks that the transfer of the 5th respondent as Senior Clerk in the Electrical Branch of the Southern Railway, Palakkad Division under the garb of mutual transfer of Shri Sanil Kumar, Head Clerk is contrary to law and discriminatory and to set aside Annexure.A2.

2. After hearing the learned counsel of the applicant and learned counsel for the official respondents we find that the applicants do not have a subsisting cause of action now to challenge Annexure.A2. It can be seen from Annexure.A2 order that the 5th respondent was transferred by order dated 19.8.99, reported in the Personnel Branch on 3.9.99 and joined TRD Branch on 4.10.99. What has been done by order dated 24.11.99 (A2) was only regularising the period between 3.9.99 and 4.10.99 and spelling out the terms of mutual transfer. The applicants had on 23.11.99 made a representation Annexure.A1 in which it had been stated that the 5th respondent had been posted in the TRD Branch vide order dated 4.10.99 and had only requested that she might be assigned her seniority. The representation A3 dated 27.1.2000 is only a reminder to Annexure.A1. If the applicants' grievance was not redressed or a reply not received within six months from the date of Annexure.A1 representation they should have challenged the transfer and posting of the 5th respondent in TRD within one year thereafter. That having not been done the right of the applicants to challenge Annexure.A2 has been barred in terms of Section 21 of the Administrative Tribunals Act, 1985.

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3. The learned counsel of the applicants stated that granting seniority to the 5th respondent above the applicants is what the applicants are aggrieved of. If that be so, the applicants have as admitted by them made representations against the provisional seniority list A8 in February, 2001. The respondents called for representations with a view to finalise the provisional seniority list after considering the representations. Therefore, we do not find any cause of action for the applicants to file this application.

4. In the result the application is rejected under Section 19(3) of the Administrative Tribunals Act, 1985.

Dated the 23rd day of July, 2001


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

(S)

List of annexures referred to:

Annexure A1: True copy of the joint representation dated 23.11.99 addressed to the fourth respondent.

Annexure.A2: True copy of the Office Order No.J/E.57/99 dated 24.11.99 issued by the fourth respondent.

Annexure.A3: True copy of the joint representation dated 27.1.2000 addressed to the second respondent.

Annexure.A8: True copy of the Provisional Seniority List published under letter No.J/P-612/III/MES/Vol.III dated 16.2.2001 issued by the fourth respondent.

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