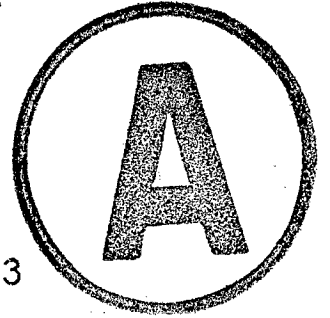


**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

Original Application No.1010 of 2012  
with  
Original Application No. 619 of 2013

Monday, this the 16<sup>th</sup> day of December, 2013



**C O R A M :**

**HON'BLE Mr.JUSTICE A.K.BASHEER, JUDICIAL MEMBER**  
**HON'BLE Mr.K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

**1. O.A. No. 1010/2012**

1. M.V.Rajendran,  
S/o.Velayudhan,  
Deputy Ticket Examiner/Head Ticket Examiner/  
General Squad, Southern Railway,  
Trichur Railway Station, Trichur.  
Residing at Manakulam Parambil House,  
Puzhakkal P.O., Trichur District.
2. V.Mohanan,  
S/o.R.Vamana Shenoy,  
Head Ticket Examiner/General Squad,  
Southern Railway, Trichur Railway Station, Trichur.  
Residing at 40/3126, T.O.West,  
K.G.Vadhyar Road, Ernakulam, Kochi – 682 035.
3. Anilkumar G Nair,  
S/o.K.N.Gopalakrishnan Nair,  
Head Ticket Examiner/General Squad,  
Southern Railway, Trichur Railway Station, Trichur.  
Permanent Address:Kizhakke Parambath House,  
Udayanapuram P.O., Vaikom – 686 141.
4. M.K.Vikas,  
S/o.T.P.Kunchan,  
Head Ticket Examiner/General Squad,  
Southern Railway, Trichur Railway Station, Trichur.  
Permanent Address: Srivihar, Panamannur P.O.,  
Ottappalam, Palghat District – 679 501.

...Applicants

(By Advocate Mr.T.C.Govindaswamy)

**V e r s u s**

1. Union of India represented by the General Manager,  
Southern Railway, Headquarters Office,  
Park Town P.O., Chennai – 600 003.



2. The Senior Divisional Personnel Officer,  
Southern Railway, Trivandrum Division,  
Thiruvananthapuram – 695 014.
3. The Senior Divisional Commercial Manager,  
Southern Railway, Trivandrum Division,  
Thiruvananthapuram – 695 014.
4. The Chief Commercial Manager,  
Southern Railway, Headquarters Office,  
Park Town P.O., Chennai – 600 003.
5. The Divisional Railway Manager,  
Southern Railway, Trivandrum Division,  
Thiruvananthapuram – 695 014.

...Respondents

(By Advocate Mr.Thomas Mathew Nellimoottil)

**2. O.A. No. 619/2013 :**

T. Sindhu Bhuvanendran,  
W/o.A.P.Joshy,  
Senior Ticket Examiner (Ladies Squad),  
Southern Railway, Trichur Railway Station, Trichur.  
Residing at Anthikad House, Sankara Iyer Road,  
Trichur – 680 004.

...Applicant

(By Advocate Mr.T.C.Govindaswamy)

**V e r s u s**

1. Union of India represented by the General Manager,  
Southern Railway, Headquarters Office,  
Park Town P.O., Chennai – 600 003.
2. The Divisional Personnel Officer,  
Southern Railway, Trivandrum Division,  
Thiruvananthapuram – 695 014.
3. The Senior Divisional Commercial Manager,  
Southern Railway, Trivandrum Division,  
Thiruvananthapuram – 695 014.
4. The Chief Commercial Manager,  
Southern Railway, Headquarters Office,  
Park Town P.O., Chennai – 600 003.
5. The Divisional Railway Manager,  
Southern Railway, Trivandrum Division,  
Thiruvananthapuram – 695 014.

...Respondents

(By Advocate Ms. P.K.Radhika)



These applications having been heard on 16<sup>th</sup> December 2013, the Tribunal on the same day delivered the following :-

### **ORDER**

**HON'BLE Mr.K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

Having common facts and issues, these O.As were heard together and are disposed of by this common order.

2. The applicants are ticket checking staff in 'general squad' at Trichur, who conduct super checks / surprises checks of unreserved compartments. They were transferred upon reduction of staff strength in ticket checking squad vide Annexure A-1 order dated 29.07.2011 issued by the second respondent. In compliance with the order of this Tribunal dated 27.06.2012, representations of the applicants as well as others were considered and rejected vide Annexure A-2 order dated 30.10.2012. Aggrieved, they have filed this O.A for the following reliefs :

- (i) call for the records leading to the issue of Annexures A-1 and A-2, quash the same to the extent they relate to the applicants and direct the respondents to allow the applicants to continue at Trichur as if Annexures A-1 and A-2 have not been issued at all;
- (ii) Award costs of and incidental to this application;
- (iii) Pass such other orders or directions as deemed just, fit and necessary in the facts and circumstances of the case.

3. The applicants contended that Annexures A-1 and A-2 orders are not in public interest nor based on relevant considerations. The criterion adopted by the respondents to retain the ticket checking staff among the depleted strength in the squad is without authority of law and not based on any norms adopted or prescribed by the competent authority. Any transfer out of the



ticket checking staff should be on the principle 'first come first go'. The respondents considered the representations submitted by the applicants and rejected vide Annexure A-1 order sticking to their earlier order of transfer. The procedure adopted by the Railways to retain the senior most and render the junior most as the surplus has not been followed in the event of reduction of strength in a particular cadre. Annexure A-2 order was issued without application of mind purely on the basis of alleged deficiency in performance. As a matter of fact, the first applicant in O.A. No. 1010/2012 is chosen as the best Ticket Checking Staff of the year 2010-2011. Despite this, the respondents allege that the performance of the said applicant is poor. The applicants are being utilized in sleeper coaches for four days a week and only for two days their services are being utilized for squad work. The respondents have not considered the fact that the husband of the applicant in O.A. No.619/2013 goes for his duties from Trichur to Shornur.

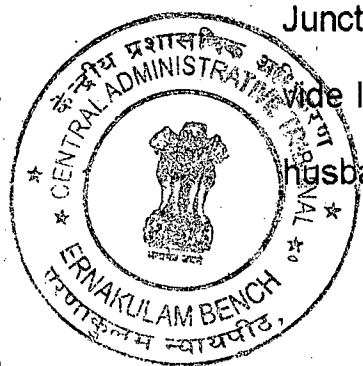
4. Per contra, the respondents submitted that the transfers in respect of the applicants are pursuant to the implementation of a policy decision regarding the reduction of certain percentage of posts in Ticket Examiners' Squad in order to avoid the reserved coaches going unmanned and to ensure safety of the passengers travelling in the reserved compartments and to restrict unauthorized ticket holders etc. As 41 ticket checking staff are found to be excess, they were transferred to nearby places vide Annexure A-1. While transferring them their performance in regard to earnings has been taken into account. Shifting from the squad to sleeper is not on the basis of any seniority but on the basis of performance in earnings among the staff. The certificate of merit awarded to the first applicant in O.A. No. 1010/2012 is for



the period from April, 2010 to March, 2011. The instructions regarding periodical transfer are not applicable to administrative transfer. In the case of **Shilpi Bose and Others vs. State of Bihar and Others**, AIR 1991 SC 532, Hon'ble Supreme Court observed that the transfer orders issued by the competent authority do not violate any legal rights and even if a transfer is passed in violation of executive instructions or orders, the Courts ordinarily should not interfere with the orders, instead, the affected party should approach the higher authorities in the department. As per submission, in terms of earning, the position of the applicants is far below 36 and hence they could not find place among the 36 who were retained in the squad.

5. We have heard Mr. T.C. Govindaswamy, learned counsel for the applicants and Mr. Thomas Mathew Nellimoottil, learned counsel for the respondents in O.A. No. 1010/12 and Ms. P.K. Radhika, learned counsel for the respondents in O.A. No. 619/13 and perused the records.

6. The transfer of the applicant is due to the reduction of the Ticket Examiners' Squad in public interest. The criterion for transfer of the applicants is their comparatively lower performance as regards earnings and not on the basis of seniority. They are among 41 staff deployed in administrative exigencies to which instructions regarding periodical transfer are not applicable. They are not transferred to far away places. As regards the applicant in O.A. No. 619/2013, she had requested for a posting at Ernakulam Junction vide letter dated 20.04.2010 and specifically in the sleeper section vide letter dated 21.05.2011. Therefore, her contention regarding posting of husband and wife together does not have any weight. The transfer of the



applicants is an incidence of service and is not liable to be interfered with as no malafides or violation of rules is proved. We do not find any merit in the contention of the applicants. Hence the O.As fail.

7. However, in the order dated 03.10.2012 at Annexure A-2, it is stated that the applicants can register afresh for transfer back to squad which will be considered after a period of two years. The prescription of two years residency for registration is not backed by any rules or instructions and appear to be arbitrary. Hence it is in the interest of justice that the respondents do not insist on that condition in respect of the applicants.

8. The applicants are continuing in their posts in squad on the strength of the interim orders of this Tribunal dated 06.11.2012 and 09.07.2013 respectively. The interim orders directing the respondents not to relieve the applicants from Trichur are hereby vacated. The respondents are directed to register the requests from the applicants, if any, for transfer to the places of their choice ignoring the stipulation of two years in the impugned order at Annexure A-2 and consider their transfer as per their choice as and when vacancy arises as per their turn.

9. The O.As are disposed of as above with no order as to costs.

(Dated, the 16<sup>th</sup> day of December, 2013)

*Sd/-*  
K. GEORGE JOSEPH  
ADMINISTRATIVE MEMBER



*Sd/-*  
JUSTICE A.K. BASHEER  
JUDICIAL MEMBER

CERTIFIED TRUE COPY  
Date 6/1/14

*[Signature]*  
Section Officer (Judl)