

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

D.A. 64/ 94

Monday, this the 31st day of January, 1994

CORAM

HON'BLE MR JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN
HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

K Vasudevan
Electrical Fitter(P), Gr.II
Southern Railway, Mangalore,
Palghat Division .. Applicant

By Advocate Mr P Sivan Pillai

Vs.

- 1 The Divisional Personnel Officer
Southern Railway, Palghat.
- 2 The Senior Divisional Electrical
Engineer, Southern Railway, Palghat.
- 3 The Senior Electrical Foreman
Southern Railway, Mangalore.
- 4 Lohithakshan,
Electrical Fitter (P), Gr.II,
Southern Railway, Cannanore. .. Respondents

By Advocate Mr George Joseph. for R.1to3.

O R D E R

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN

Applicant who was transferred from Mangalore to Cannanore by Annexure A1 order seeks appropriate directions to Respondents 1 to 3 to relieve him from Mangalore to join his post at Cannanore. He would say that others transferred along with him, were relieved to take up their posts. He would submit further that he is being retained by 3rd respondent by misusing his authority.

- 2 When the application came before us on 14.1.94, we granted time to Standing Counsel for respondents to ascertain the position and inform us. The case was posted

on 21.1.94 for this purpose. As counsel had not received any instructions, we adjourned the application again, directing respondents to answer the allegations that Lohidakshan, K. Surendran and Ravindranathan had been extended preferential treatment. The case was posted for final disposal to this day.

3 Respondents have neither filed a reply statement, nor answered the allegations relating to the three officials aforesaid. However, Standing Counsel for respondents states that applicant is being retained in the exigencies of service. We do not know the basis for this submission. We would have appreciated this submission, if a reasonable explanation could be offered for the different treatment meted out to Lohidakshan, Surendran and Ravindranathan. That apart, we would expect the Superior authority who passed the order of transfer to be aware of the staff position, instead of leaving matters to the whims of the subordinate authority at Mangalore. We are not persuaded to think that the order of transfer was issued by the Divisional Personnel Officer unaware of the requirements at Mangalore or Cannanore. Normally in matters like this, we would be slow to interfere. However, when arbitrariness is alleged and made out, interference is called for. Clear case of mala fide and arbitrariness is alleged, and despite specific directions, the allegations have not been controverted. We accept the allegations as correct. It must be taken that Lohidakshan,

Surendran and Ravindranathan are similarly situated and that applicant was singled out for hostile treatment. We consider the action of Respondent-3 as arbitrary. It is also worth noticing that Respondent-3 has not controverted the allegations that:

"Applicant was retained at Mangalore only on account of malice and personal ill-will of Respondent-3"

4 We allow the application and direct Respondent-3 to relieve applicant in terms of Annexure A1 order forthwith, to join the post at Cannanore. Parties will suffer their costs.

Dated the 31st January, 1994.


PV VENKATAKRISHNAN
ADMINISTRATIVE MEMBER


CHETTUR SANKARAN NAIR(J)
VICE CHAIRMAN

P/1-2