

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.122/2002

Friday this the 15th day of February, 2002

CORAM

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

C.K.Assanar,
Senior Auditor,
Office of the Principal Director of Audit,
Southern Railway,
Thiruvananthapuram Divn. ...Applicant

(By Advocate Mr. T.P.Sajan)

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1. Union of India represented by
Principal Director of Audit,
Southern Railway,
Madras.
2. M.R.Lenin Kumar, Clerk
Office of the Principal Director
of Audit, Southern Railway,
Ernakulam.
3. Saji Manuel,
Auditor, Office of the Principal
Director of Audit, Southern Railway,
(Construction),Ernakulam. ...Respondents

(By Advocate

The application having been heard on 15.2.2002, the
Tribunal on the same day delivered the following:

O R D E R

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

The applicant, a Senior Auditor in the
office of the Principal Director of Audit, Southern
Railway, Trivandrum on which post he joined in
September, 1988 made a request for transfer to
Ernakulam on 14.3.2000. While so by an order dated

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19.7.2000 the third respondent was appointed to fill up the post on deputation for a period of one year. Anticipating that another vacancy would arise and his request for transfer would be considered, he made another representation on 26.9.2000. To the disappointment of the applicant, he found that by the impugned order dated 19.9.2001 the deputation of the third respondent was extended for another year and by order dated 2.1.2002 the second respondent who was working as a Clerk on promotion was retained in the same office as Auditor. Alleging that while the request of the applicant for a transfer as Senior Auditor to Ernakulam was pending, the first respondent was not justified in extending the deputation of the third respondent by Annexure.A4 order and to retain the second respondent on promotion in the same office totally obliterating the chance of the applicant to get a transfer to Ernakulam and that when a vacancy arose, it was incumbent on the first respondent to first consider his request for transfer, the applicant has filed this application challenging the impugned orders Annexures.A4 and A5 and for a direction to the 1st respondent to consider the applicant's request for transfer to Ernakulam declaring that the action of the 1st respondent in issuing Annexures A2 and A4 are illegal and against the provisions of the Fundamental Rules and Comptroller and auditor General's Manual of Standing Orders.

2. We have perused the application and the material papers on record and have heard Shri T.P.Sajan, learned counsel of the applicant and Shri P.Haridas, Standing Counsel for Railways. Shri Sajan argued that as per the provisions in FR 15-A when a request for transfer is pending, it is incumbent on the competent authority to first consider that request.

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3. We have gone through the provision referred to by the learned counsel and do not find any such provision in the said Rules. In the Manual of Standing Orders also we do not find any such instruction. Learned counsel of the applicant argued that there is no guidelines in regard to transfer applicable to the establishment of the 1st respondent and therefore, in the absence of any transfer policy, just and proper consideration of requests may not take place.

4. We do not find any need in this case to go into that aspect. What is projected in this OA is a personal grievance of the applicant. If there is any general complaint that there is no transfer policy and the absence of such a policy arbitrariness would be the result, it is for the applicant individually or collectively with other employees to take up the issue with the authorities. From the allegation in this application, we do not find that there has been any such arbitrariness in the matter of transfer and posting. Therefore, we do not consider it necessary to consider that aspect.

5. Coming to the personal grievance of the applicant against impugned orders, we do not even prima facie find that there is any legitimate grievance to the applicant against the orders Annexures A2, A4 and A5 to maintain an application for a declaration that these orders are illegal. A2 is an order from the office of the Auditor General (Audit), Nagaland relieving the third respondent to join in the office of the 1st respondent on deputation. Just because the applicant had applied for a transfer the first respondent is not under an obligation not to make appointment of Auditors on deputation if there is an administrative requirement. The Annexure.A4 order of extension

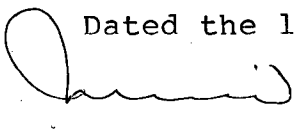
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of third respondent's deputation for another year also is not opposed to any rule or instruction and the applicant cannot have any legitimate grievance on that score. Annexure.A5 order by which the second respondent a clerk was promoted and appointed in the same office is also a routine administrative order by which none of the legal rights of the applicant is infringed giving him a cause of action. The applicant has no right to claim a posting to any particular place or office. Only if the applicant has any such right any action which infringes that right would become actionable. Thus we find that for want of a cause of action, the application is liable to be rejected.

6. In the light of what is stated above we reject the application under Section 19(3) of the Administrative Tribunals Act, 1985. However, we hope the first respondent would favourably consider the applicant's representation wherever it become administratively feasible.

Dated the 15th day of February, 2002


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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A P P E N D I X

Applicant's Annexures:

1. A-1: True copy of the representation filed by the applicant before the 1st respondent dated 14.3.2000.
2. A-2: True copy of order of deputation No.Admn/Audit/Order No.145 dated 19-7-2000 of the 3rd respondent.
3. A-3: True copy of the reminder to the representation filed by the applicant dated 26.9.2000.
4. A-4: True copy of the order granting extension of period of deputation dated 19.9.2001 to the 3rd respondent.
5. A-5: True copy of the order No.00 No.121 dated 2.1.2002 promoting and posting of the 2nd respondent at the office of the 1st respondent.

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