

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.124/2004.

Tuesday this the 17th day of February 2004.

CORAM:

HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

- | | | | |
|----|-------------------|------------------------------------|------|
| 1. | K.K.Rajan, | Diesel Assistant, Ernakulam South. | |
| 2. | K.Gangadharan, | -do- | -do- |
| 3. | E.A.Abdul Khader, | -do- | -do- |
| 4. | K.P.Varghese, | -do- | -do- |
- Applicants

(By Advocate Shri T.C.Govindaswamy)

Vs.

- | | | |
|----|---|-------------|
| 1. | Union of India, represented by the
General Manager,
Southern Railway, Headquarters Office,
Park Town P.O., Chennai-3. | |
| 2. | The Chief Personnel Officer,
Southern Railway, Headquarters Office,
Park Town P.O., Chennai-3. | |
| 3. | The Divisional Railway Manager,
Southern Railway, Trivandrum Division,
Trivandrum-14. | |
| 4. | The Divisional Railway Manager,
Southern Railway, Chennai Division,
Chennai-3. | |
| 5. | Sri.C.Sethu, Shunting Driver,
Southern Railway, Crew Booking Office,
Quilon. | |
| 6. | Sri.S.Babu Rajan, Goods Driver,
Southern Railway,
Office of the Chief Crew Controller,
Arkonam Junction, Arkonam,
Tamil Nadu. | Respondents |

(By Advocate Shri P.Haridas)

The application having been heard on 17th February 2004,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.KV.SACHIDANANDAN, JUDICIAL MEMBER

There are four applicants presently working as Diesel Assistants under the Southern Railway, Trivandrum Division. It is contended that the Ist applicant is the Seniormost among the Diesel Assistants waiting for promotion as Shunting Dirver. The 5th respondent herein is a Shunting Driver (Diesel Loco) of Trivandrum who is due to supearannuation from service on 30.11.2004. 6th respondent is a Goods Driver (AC&Diesel Loco) of Chennai Division of Southern Railway, is presently working at Arkonam junction who was once transferred to Trivandrum Division on loss of seniority, is now seeking mutual transfer with that of 5th respondent. The apprehension of the applicants especially of the Ist applicant is that if such a mutual transfer is permitted their promotion facilities and other benefits will be lost. Aggrieved by the said apprehension the applicants have filed this O.A. seeking the following reliefs:

- a. Declare that the 5th and 6th respondents have no right to get themselves "mutually exchanged" between Trivandrum Division and Chennai Division of Southern Railway.
- b. Declare that the proposed action of the official respondents in considering grant of "mutual exchange" between 5th and 6th respondents is totally arbitrary, discriminatory, an abuse of power and hence unconstitutional.
- c. Direct the official respondents not to entertain the request for mutual exchange between the 5th and 6th respondents.
- d. Award costs of and incidental to this application.
- e. Pass such other orders or directions as deemed just, fit and necessary in the facts and circumstances of the case.

2. When the O.A. came up before the Bench, Shri TC Govindaswamy appeared for the applicants and Shri P.Haridas took notice for the respondents. Counsel for applicants submitted



that the applicants would be satisfied if they are permitted to make a representation to the 1st respondent and on receipt of such representation, the first respondent is directed to consider and pass appropriate orders within a time frame.

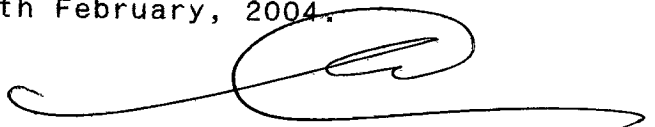
3. Counsel for respondents has no objection in adopting such a course of action.

4. In the interest of justice this Court direct the applicants to make a comprehensive representation to the first respondent, General Manager, Southern Railway within one week and direct the first respondent that, on receipt of such a representation, he shall consider and dispose of the same and pass appropriate orders as expeditiously as possible, in any case within a period of two months from the date of receipt of such representation.

5. Since the mutual transfer rules and regulations with reference to the Supplementary Circular No.9 to Master Circular No.24 dated 18.2.2000 is having an impact and policy decision is involved, this Court direct the 1st respondent himself to consider and dispose of the representation, since there is no specific order under challenge. This Court also direct that in the meantime the respondents will not take any action prejudicial to the existing ^{interest of the} applicants.

6. With the above observations the O.A. is disposed of at the admission stage itself. In the circumstances no order as to costs. (Copy of the order will be given to the counsel today itself.)

Dated the 17th February, 2004.



K.V. SACHIDANANDAN
JUDICIAL MEMBER