

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O. A. No.  
T. A. No.

18/93

109

DATE OF DECISION 5.1.93

K. Krishnankutty

Applicant (s)

Mr. Babu Karukapadath

Advocate for the Applicant (s)

<sup>Versus</sup>  
Chief Personnel Officer,  
Head Quarters Office, Southern Respondent (s)  
Railway, Madras-3 and ~~one~~ another

Smt. Sumathi Dandapani

Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. N. Dharmadan, Judicial Member

~~The Hon'ble Mr.~~

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. To be circulated to all Benches of the Tribunal? No

JUDGEMENT

Mr. N. Dharmadan, Judicial Member

This application has been taken on mention in view of the urgency.

2. Applicant is challenging Annexure-I proceedings by which he has been repatriated to his parent cadre in the Mysore Division from the post of Train Supdt., Trivandrum Division. The order reads as follows:

"Shri K. Krishnan Kutty, adhoc TS/TVC in scale of of Rs. 1600-2660 is repatriated to his parent cadre i.e. S.M. cadre in Mysore Division. He may be relieved to carry out his repatriation.

This has the approval of competent authority."

3. According to the applicant he was working Station Master <sup>in Trivandrum Division.</sup> Later he was posted as Train Supdt. in the Kerala Express in 1989. The impugned order has been passed because of irrelevant and extraneous considerations. He has stated that a vigilance case was registered against one M.S. Radhakrishnan, TTE who travelled in the train without proper

travelling permit or ticket and the failure of the applicant to detect the same when he was incharge of the train was taken as the reason for repatriating him to the parent cadre. The applicant has denied his involvement in the matter and has given his explanation. However, according to the applicant the present transfer has not been effected in the exigency of service or in public interest <sup>and</sup> it is a malafide exercise of power. Hence, he stated that this order is violative of article 14 and 16 of the Constitution. In this application filed under section 19 of the Administrative Tribunals Act, he has prayed for quashing Annexure-I order.

4. At the time when the case was taken up for admission learned counsel for respondents opposed the application and submitted that this is liable to be rejected in limini.

5. Learned counsel for applicant submitted that the applicant has only 20 months to retire from service and in the circumstances if at all he is to be transferred to the post of Station Master, he can only be posted within the Trivandrum Division and the present repatriation to Mysore Division is contrary to the executive instructions and practices followed in the Railway.

6. However, having regard to the facts and circumstances of the case, I am satisfied that this application can be disposed of in the interest of justice with appropriate direction. Accordingly, I admit the application and dispose of the same directing the applicant to file a detailed representation to the first respondent against Annexure-I transfer with all supporting materials and documents. This shall be done within two weeks from the date of receipt of a copy of this judgment. If the first respondent receives such a representation from the applicant as directed above, he shall consider and dispose of the same in accordance with law within a period of one month from the date of receipt of the same. Till the disposal of the same, the impugned order

shall be kept in abeyance in case the applicant has not been relieved from the post of Train Supdt. till forenoon of 5th January, 1993.

7. The application is disposed of on the above lines.
8. there shall be no order as to costs.

*N. Dharmadan*

(N. Dharmadan)  
Judicial Member  
5.1.93

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