

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

OA 196/98

Wednesday the 15th day of July 1998.

CORAM

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR P.V.VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

C.K.Prabhakaran
S/o K.P.Kunjiraman Nair
Junior Engineer
(Telecommunication) Grade-I
Southern Railway, Palghat.
R/o 196-B, Railway Colony
Hemambika Nagar, Palghat. ...Applicant

(By advocate: Mr TCG Swamy)

Versus

1. The General Manager
Southern Railway
Headquarters Office
Park Town P.O.
Chennai - 3.
2. The Deputy Chief Personnel Officer
Southern Railway
Headquarters Office
Park Town P.O.
Chennai - 3.
3. The Divisional Personnel Officer
Southern Railway
Palghat Division
Palghat.
4. The Chief Signal & Telecommunication Engineer
Southern Railway
Headquarters Office
Park Town P.O.
Chennai.
5. The Deputy Chief Signal and Telecommunication
Engineer/Telecommunication
Southern Railway, Headquarters Office
Chennai.
6. Shri P.N. Kurup
Senior Divisional Signal & Telecommunication
Engineer, Southern Railway
Palghat Division, Palghat.
7. Shri M.K. Rajmohan
Junior Engineer
Telecommunication, Southern Railway
Palghat.
8. The Chief Communication Engineer
Southern Railway, Headquarters Office
Park Town, P.O., Chennai-3. ...Respondents.

(By advocate Mrs Sumathy Dandapani) (R1 to R6 & R8)
Mr P. Santhosh Kumar (R-7)

Application having been heard on 15th July 1998, the Tribunal on the same day delivered the following:

O R D E R

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

The applicant while working as Junior Engineer (Telecommunication), Southern Railway, Palghat was transferred by the impugned order (Annexure A-2) dated 14.1.98 to the Signal & Telecommunication Workshop, Podanur. This order is impugned in this application on various grounds. As the learned counsel of the applicant submitted that he is pressing only one point i.e. the 8th respondent is not competent to transfer the applicant to Podanur, it is unnecessary to state the other facts of the case. According to the applicant, the Chief Communication Engineer not being the head of the Department to which the applicant belongs, he is not authorised to issue the transfer order, and, therefore, the impugned order is liable to be struck down.

2. Respondents 1 to 6 contend that as the Chief Communication Engineer is the functional head of Telecommunication wing of the Signal & Telecommunication Department, he is competent to transfer group-C & D officials under his control.

3. The 7th respondent who has been transferred and posted at applicant's place has also filed a detailed statement reiterating the same contentions which respondents 1 to 6 have taken in their reply statement.

4. We have heard learned counsel for the parties at considerable length. We have also carefully gone through the pleadings and other materials placed on record as also the copy of the order dated 13.2.97

issued by the Railway Headquarters by which the General Manager had re-delegated the powers of transfer in regard to class III and IV staff to functional heads of the department.

5. Mr TCG Swamy, learned counsel for applicant argued that the relevant provision of the Railway Establishment Code Vol.I in regard to transfer in this case is rule 227 according to which the power to transfer a railway servant from one post to another lies with the competent authority which according to Rule 103 (51) is the President or any authority to which the power is delegated in appendix VI. Under appendix VI, the competent authority for transferring a group-C official being the 4th respondent and as there is no re-delegation, the order is incompetent, argued Mr Swamy. Shri Swamy argued that Rule 226 relates to transfers from one railway to another, and from railways to other establishment, and that the provision for re-delegation contained in that Rule would not apply to transfer from one post to another within the division which is contemplated in Rule 227.

6. We are unable to agree with the arguments of the counsel that rule 226 & 227 are mutually exclusive and independent. These two provisions come under the general captions of transfers. There is no separate caption for rule 227. This is a clear indication of the fact that these two provisions are not mutually exclusive. The power of transfer from one railway establishment to another is much wider powers than the power to transfer from one post to another. If the power to transfer from one railway to another can be

re-delegated by the General Manager, we find no reason why the power to transfer from one post to another within the division cannot be so re-delegated. We are also of the view that the provisions contained in Rule 226 & 227 are supplementary to one another. The copy of the order dated 13.2.97 produced for our perusal by the standing counsel for respondents 1-6 shows that the General Manager has re-delegated the powers of transfer of class III & IV employees to functional heads of department. There is no dispute to the facts that the Chief Communication Engineer is the functional head of the Communication Wing of Signal & Telecommunication Department having control over the staff in that wing. Para 1.3 of Indian Railways Signal Engineering Manual Part I reads as follows:

"1.3: The Chief Signal and Telecommunication Engineer may be assisted in his work by one or more Chief Signal Engineers and/or Chief Telecommunication Engineers. Wherever provided, the Chief Signal Engineer and Chief Telecommunication Engineer are in independent charge of their respective areas of control. Their work, is, however, co-ordinated by the Chief Signal and Telecommunication Engineer who is responsible to the General Manager."

Para 1.5 of the same chapter reads as follows:

"1.5: The expression 'Chief Signal and Telecommunication Engineer' wherever used in this Manual includes Chief Signal Engineer, Chief Telecommunication Engineer and Chief Signal and Telecommunication Engineer (Construction) unless the contrary is clear from the context."

6. It is evident from what is extracted above that the Chief Communication Engineer is the functional head with full control of the communication wing of the telecommunication department of the Railways and that the expression 'Chief Signal & Communication

Engineer' would include Chief Communication Engineer also. We, therefore, are satisfied that the Chief Communication Engineer, ~~is~~ the functional head in regard to communication wing of the Telecommunication Department by virtue of the re-delegation by the General Manager by order dated 13.2.97 is competent to issue the order of transfer of a group-C official like the applicant under his control. We, therefore, find no merit in the argument that the 8th respondent is incompetent to transfer the applicant. Further, the contention of respondent No.6 on behalf of respondents that it was with the approval of the 8th respondent alone that the applicant was appointed to the post of Junior Engineer has not been disputed by the applicant. If the Chief Communication Engineer is competent to appoint the applicant on a post which he is holding now, it is futile to argue that he is not competent to shift the applicant from one post to another equivalent post in the cadre.

7. In the light of what is stated above, finding no merit, the OA is dismissed. No order as to costs.

Dated 15th July 1998.


(P.V. VENKATAKRISHNAN)
ADMINISTRATIVE MEMBER


(A.V. HARIDASAN)
VICE CHAIRMAN

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LIST OF ANNEXURE

1. Annexure A2: A true copy of the Office Order No. 3/SG 3/98 dated 14.1.98 issued by the third respondent.

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