

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No. 226 of 1991
~~T. A. No.~~

DATE OF DECISION 5-4-1991

Chacko Joseph Applicant (s)

M/s P Santhalingam &
K Usha Advocate for the Applicant (s)

Versus

Senior Divisional Personnel Respondent (s)
Officer, Divisional Office, Personnel Branch,
Palghat & another

Mr MC Cherian Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. NV Krishnan, Administrative Member

&

The Hon'ble Mr. AV Haridasan, Judicial Member

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

AV Haridasan, Judicial Member

In this application, the applicant working as Commercial Clerk in the Palghat Railway Station has impugned the order dated 24.1.1991 of the Senior Divisional Personnel Officer, Southern Railway, Palghat(Annexure-I) transferring him to Erode. It has been averred in the application that though there are Commercial Clerks who had served at Palghat for more than 8 to 12 years, the applicant has been discriminated and has been chosen to be transferred to a distant place at a time when his house construction is in the midway and when his wife is working in the same Department at Palghat. This according to the applicant, amounts to violation of Articles

14 and 16 of the Constitution. The applicant who is a member of the Scheduled Tribe community having married a lady belonging to a different caste claims that he is entitled to preferential treatment and that not only that, this preferential treatment has not been given to him, he has also been denied the consideration shown to many other persons who had been working in the same station for fairly long time. The applicant therefore prays that the impugned order may be struck down.

2. The application is opposed by the respondents, who have in their reply statement sought to justify the impugned order on the ground that as per the instructions from the Railway Board, copy of which is produced as Annexure-R5, the persons working in sensitive post are to be transferred once in 4 years and that as there is no other post which can be given to the applicant in Palghat by sheer necessity to abide by the instructions of the Railway Board, the applicant has been transferred to Erode. The allegations of discrimination has been contended to be made without basis. The retention of 4 persons mentioned in the application in Palghat though they had served for longer period than 4 years is justified on the ground that at the time when they were transferred for administrative convenience they ^{are} accommodated in alternate post in the same station as vacancies were available then. It is contended that this does not given rise to a claim to the applicant to say that he should also be retained in Palghat for a long^{er} time than 4 years prescribed by the

instructions of the Railway Board. In addition to the above contentions, it has also been stated in the reply statement that the conduct of the applicant as an official in his interaction with the other officials has given rise to several unhappy situations and that for the smooth running of the office, the absence of the applicant for some time is found to be expedient. In this circumstances, the respondents pray that the impugned order issued bonafide may not be interfered with.

3. Having heard the arguments at the bar and having gone through the pleadings and the documents produced, we are not convinced that the impugned order suffers from any vice of malafides or arbitrariness. The applicant had been working at Palghat for more than 4 years in a sensitive post and the time is up for him to have a shift. The fact that the applicant's wife is employed in Palghat and that the applicant's house construction is still in the midway are considerations which should normally ~~be~~ weigh while considering the question of his transfer. But even on this point, we are of the view that the personal convenience of individual officials should always subdue to the public interest. Anyway, transfer being a routine administrative matter and as the impugned order in this case is not found to be vitiated by any vice, we are not inclined to interfere with the order at all. The application therefore has no merit. But having regard to the circumstances mentioned in the application and stated at the bar by the

learned counsel for the applicant, we give liberty to the applicant to make a representation for a posting back to Palghat or to any other convenient station, explaining all his difficulties to the second respondent within a week from the date of communication of this order and we direct the second respondent to consider this representation, if so made, within a period of one month from the date of receipt thereof in a sympathetic way and pass appropriate orders, in accordance with law. There is no order as to costs.


(AV HARIDASAN)
JUDICIAL MEMBER


(NV KRISHNAN)
ADMVE. MEMBER

5-4-1991

trs