

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 228 OF 2013

Tuesday, this the 10th day of December, 2013

CORAM:

**HON'BLE MR.JUSTICE A.K.BASHEER, JUDICIAL MEMBER
HON'BLE Mr. K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

S.Rajagopal
Station Master Grade II
Ernakulam South Railway Station
Southern Railway, Trivandrum Division
Residing at Panjikaran House, Jawahar Nagar – 35
Angamali ... Applicant

(By Advocate M/s Varkey & Martin)

versus

1. Union of India represented by the General Manager
Southern Railway, Headquarters Office
Chennai – 600 003
2. The Divisional Railway Manager
Southern Railway, Trivandrum Division
Trivandrum – 14
3. The Divisional Personnel Officer
Southern Railway, Trivandrum Division
Trivandrum – 14
4. The Divisional Operating Manager
Southern Railway, Trivandrum Division
Trivandrum – 14 ... Respondents

(By Advocate Mr.Sunil Jacob Jose)

The application having been heard on 10.12.2013, the Tribunal on the same day delivered the following:


ORDER

HON'BLE MR.JUSTICE A.K.BASHEER, JUDICIAL MEMBER

Applicant who is stated to be working as Station Master, Grade II at Ernakulam South Railway Station in the Trivandrum Division of Southern Railway has filed this Original Application impugning Annexure A-2 order of his transfer to Nagercoil Junction. He contends that the order of transfer is

totally illegal and vitiated and is nothing but "witch hunting". This transfer, barely six months after he assumed charge at Ernakulam South Junction, is nothing but vindictive since apparently the respondents do not seem to approve of his activities as Zonal President of the Association of Station Masters.

2. Per contra it is contended by the respondents that applicant has been transferred in public interest and due to administrative reasons. Annexure A-2 order will show that 95 employees including the applicant have been transferred to various Stations. But the applicant and some others in Annexure A-2 have been transferred on administrative grounds. Respondents have raised a specific contention that the Administration is of the view that in public interest it will not be prudent or desirable to retain the applicant at a major Station like Ernakulam South. It is pointed out that on September 4, 2012 applicant had committed serious dereliction of duty in as much as " he failed to convey the information received from duty GK of LC 75A regarding trapping of road vehicles within barriers while dispatching Train No.56383 Pass. to higher officials ". In connection with the above incident applicant has been served with a memo of charges on October 12, 2012. In this context the respondents have further enlisted six other instances of dereliction of duty by the applicant in connection with which he had been imposed with penalties. All these six instances had occurred while he was working in the same Division, viz., Trivandrum between 1991 and 2009. We do not deem it necessary to refer to or deal with the details of the charges or the penalty imposed on the applicant in those cases. It is true that in two instances, applicant was awarded only " censure " but in two cases, his pay was reduced for six months and 12 months and in another,



his increment was withheld for three months. In yet another case, one set of Privilege Pass was withheld for one year. The attempt of the respondents is apparently to show that going by the track record of the applicant it may not be prudent to post him at Ernakulam Junction as Station Master where the frequency of incoming and outgoing trains is quite high especially in view of the latest incident in September 2012 resulting in issuance of Annexure A-7 charge sheet.

3. The scope of judicial intervention in matters relating to transfer of an employee is well settled.

4. In **State of U.P Vs. Gobardhan Lal; (2004) 11 SCC 402** it has been held thus :-

"A Government servant has no vested right to remain posted at a place of his choice nor can he insist that he must be posted at one place or the other. He is liable to be transferred in the administrative exigencies from one place to the other. Transfer of an employee is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service in the absence of any specific indication to the contrary. No Government can function if the Government servant insists that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires."

5. A Division Bench of the High Court of Kerala in **Nirmalandan Vs. Dinakaran (1989) 1 KLT 126** has held that :-

"Transfer is an incidence of service and the Government servant has no legal right in this behalf. Guidelines for transfer are not statutory and are only meant for the guidance of the transferring authority. The guidelines issued by the Government from time to time in the matter of transfer are not exhaustive and it is open to effect transfers taking into consideration circumstances not covered by the guidelines, as in administration variety of situations not contemplated by the guidelines may arise which have to be taken into account. The appellant cannot therefore successfully contend that he has acquired

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immunity from transfer on the strength of the guidelines of the Government in this behalf. The guidelines themselves make it clear that if transfers are required to be made to sub-serve public interest, none of the guidelines in the matter of transfers shall come in the way of effecting such transfers."

(emphasis supplied by us)

6. In **Union of India and others Vs. S.L.Abbas JT 1993 (3) SC 678** their Lordship of the Supreme Court has held that "an order of transfer is an incident of Government service.Who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by malafides or is made in violation of any statutory provisions, the court cannot interfere with it. While ordering the transfer, there is no doubt, the authority must keep in mind the guidelines issued by the Government on the subject. **Guidelines however does not confer upon the Government employee a legally enforceable right."**

7. In **Shilpi Bose (Mrs.) & Ors. Vs. State of Bihar & Ors. AIR 1991 SC 532** it has been held that "A government servant holding a transferable post has no vested right to remain posted at one place or the other; he is liable to be transferred from one place to the other. Transfer orders issued by the competent authority do not violate any of his legal rights." The Court further held that "Even if a transfer order is passed in violation of executive instructions or orders, the courts ordinarily should not interfere with the order instead affected party should approach the higher authorities in the department.....".

8. We have perused the entire materials available on record. In our view there is nothing on record to indicate that the order of transfer of the applicant is actuated by malice or malafides as alleged. The Administration



has to necessarily safeguard the life and property of the travelling public. If the authority is of the view that certain change of personnel is to be effected in a sensitive post like Station Master in a particular Station, the Administration should be given a free hand to do so. It is always wise and prudent to leave the issue to the wisdom of the competent authority who has to grapple with the ground realities. If such a decision is taken at the appropriate level keeping in view the relevant inputs, Courts should refrain from treading in those areas. In the peculiar facts and circumstance of the case, we have no hesitation to hold that the order of transfer of the applicant does not suffer from any vice of arbitrariness or illegality.

9. It is true that the applicant had assumed charge at Ernakulam South Railway Station in June 2012. His wife is stated to be working at Angamaly in a Bank, and his two children are studying in and around Angamaly, which is 30 kilometers away from Ernakulam. Applicant contends that this unexpected transfer has caused undue hardship and inconvenience to him and his family. Applicant is still continuing at Ernakulam by virtue of the interim order passed by this Tribunal on March 19, 2013. Having regard to the entire facts and circumstances of the case, we are satisfied that interest of justice will be met if applicant is allowed to continue at Ernakulam till the end of the current academic year, viz., March 31, 2014.

10. For the reasons aforesaid, it is held that the order of transfer of the applicant is legal and valid. However, the respondents are directed to allow the applicant to continue at Ernakulam South Railway Station till March 31, 2014.

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11. Original Application is **disposed of** in the above terms. No costs.

Dated, the 10th December, 2013.



K GEORGE JOSEPH
ADMINISTRATIVE MEMBER



JUSTICE A.K. BASHEER
JUDICIAL MEMBER

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