

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 228
T. A. No.

1991

DATE OF DECISION 30.5.1991

N. Chandran and 4 others Applicant (s)

Mr. P. Sivan Pillai Advocate for the Applicant (s)

Versus

Union of India through the General Manager, Southern Rly, Respondent (s) Madras and Others

Mr. M C. Cherian Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. N. V. KRISHNAN, ADMINISTRATIVE MEMBER

The Hon'ble Mr. N. DHARMADAN, 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

MR. N. DHARMADAN, JUDICIAL MEMBER

The applicants are challenging Annexure A-1 transfer order dated 25.1.91 on the ground that it is arbitrary and discriminatory.

2. The applicants are working as Loco Khalasis under the Southern Railway. They are attached to the Loco Mechanical Wing of the Mechanical Department at Shoranur. While working at Shoranur they were transferred by Annexure A-1 order dated 25.1.91 to Erode, a far off and different linguistic area. This transfer causes great hardship to them. Hence they have submitted Annexure A-II series representations objecting the transfer. Since

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they were not disposed of, the applicants approached this Tribunal by filing this Application under section 19 of the Administrative Tribunals Act with following prayers:

- "(a) To permit filing of this joint application
- (b) To call for the records leading to the issue of Annexure A-1 and quash the same.
- (c) To issue such other orders directions as deemed fit and necessary by this Hon'ble Tribunal in the facts and circumstances of the case."

3. The applicants have contended that the posts to which they are now transferred under Annexure A-1 order belong to Diesel Cadre which is different from the cadre in which they are at present working. The applicants are not juniormost Loco Khalasis to be transferred to Erode; there are about 30 more juniors at present working in the cadre of Loco Khalasis and the respondents should have transferred them before transferring the applicant. They further submitted that the applicants are surplus Loco Khalasis at Erode. According to the applicants, the transfer order is arbitrary and discriminatory and liable to be set aside.

4. The respondents filed a counter affidavit denying all the allegations and averments in the application. They have submitted that about 150 posts of Loco Khalasis at Shoranur became surplus consequent upon complete dieselisation of the broad guage trains in the Palghat Division. Hence the transfer of the applicants became

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an administrative necessity. Otherwise they would be idle in the Loco Shed at Shoranur. They are juniors and they are being utilised as Call Boys/Box Boys at Shoranur for some time. When the applicants' service was utilised in the aforesaid manner, in order to fill up two vacancies at Erode the respondents have transferred two supernumerary hands from Shoranur to Erode as per order, Ext. R-1, dated 9.10.90. They have filed O.A. 935/90 before this Tribunal contending that several of their juniors were retained at Shoranur. The said application was heard and allowed by this Tribunal as per Annexure R-2 judgment observing that the transfer of the applicants therein was made without following any principle/retaining their juniors. Hence it was held that the transfer is totally unjustifiable. The present transfer order has been issued in pursuance of the observation in the judgment. The impugned transfer order has been issued transferring the juniors of the applicant therein considering the observations in Ext. R-2 judgment. The transfer according to the respondents is legal and valid and cannot be quashed.

5. In the light of the pleadings and the fact that the applicants' representations at Annexure A-II series are pending consideration before the second respondent, it would not be proper on our part to go into the merits and decide the issues raised by the applicants in this application.

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Having regard to the facts and circumstances of the case we are of the view that justice would be met in this case if we dispose of the application with the direction to the second respondent to consider Annexure A-II series of representation and dispose of them within a period of a month from the date of receipt of the copy of the judgment. In the meantime, since it has been admitted in the counter affidavit that the applicants have not been disturbed from their existing posts at Shoranur in implementation of the transfer order Annexure-I because of the pendency of the O.A., we make it clear that respondents should maintain status quo as on today till the disposal of Annexure A-II series (representations) in accordance with law as per our directions referred to above.

6. The application is disposed of as above. There will be no order as to costs.

N. Dharmadan
30.5.91.

(N. DHARMADAN)
JUDICIAL MEMBER

N. V. Krishnan
30.5.91.

(N. V. KRISHNAN)
ADMINISTRATIVE MEMBER

KMN