

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Date of decision: 13-7-1992

1) R.A.21/92 in OA-1735/91 and OA-1735/91

Union of India, represented
by GM, S.Railway, Madras
& others

- Mrs Sumathi Dandapani,
Counsel for review appli-
cants & respondents in OA

V.

R.S.Harilal

- Mr Tomy Sebastian,
Counsel for respondents
in RA & applicant in OA

2) RA-48/92 in OA-461/91

Union of India, represented
by GM, S. Railway & others

- Mr MC Cherian, Counsel
for/applicants /review

V.

Mathew Joseph & 11 others

- Mr P Sivan Pillai,
counsel for respondents
in RA

3) OA-235/92

P. Mohanan & 4 others

- Mr P Sivan Pillai,
Counsel for applicants

V.

Union of India, represented
by GM, S. Railway, Madras
& 3 others

- Mrs Sumathi Dandapani,
Counsel for respondents

4) OA-323/92

V Ravindra Babu & 3 others

- Mr P Sivan Pillai,
Counsel for applicants

V.

Union of India, represented
by GM, S. Railway Madras &
3 others

- Mrs Sumathi Dandapani,
Counsel for respondents

4)

CORAM:

Hon'ble Mr SP Mukerji, Vice Chairman

&

Hon'ble Mr AV Haridasan, Judicial Member

JUDGEMENT

(Mr SP Mukerji, Vice Chairman)

13-7-92

RA-21/92 in OA-1735/91; RA-48/92 in OA-461/91,
OA-1735/91, OA-235/92 and OA-323/92

As a result of dieselisation of rail traction in Trivandrum and Palghat Divisions, the staff working on the steam loco staff became surplus. This Tribunal has been approached through a number of applications by different categories of steam surplus staff who had been affected by the process of ultimate absorption of the surplus staff as Diesel Assistants and ^{against} other posts. One category of applicants covers those who had been identified as Steam Surplus and had been redeployed and absorbed in various other posts. Those who could not be redeployed and were left behind as the Steam Surplus Staff were later being sent for diesel conversion course for ultimate absorption as Diesel Assistants. At this juncture, those Steam Surplus Staff who had already been redeployed but were senior to those who had been sent for diesel conversion course felt aggrieved and moved this Tribunal in OA-633/91 and similar applications praying that they should have been given preference over their juniors for being sent for diesel conversion course. Their grievance was that their juniors by being sent to the diesel conversion course were likely steal a march over them on their appointment as Diesel Assistants while the applicants would be stagnating against posts in which they have been absorbed which according to them, were of inferior category. Lack of adequate number of vacancies of Diesel Assistants in these Divisions as also limitation in the number of seats available in the Diesel Training

course posed difficulties for the Railways in meeting the competing demands of the steam surplus staff. While so, it appears that the Railways went in for direct recruitment for the posts of Diesel Assistants to be filled up in the Palghat and Trivandrum Divisions. A merit list was prepared which was divided into a panel for the Trivandrum Division and another for the Palghat Division. When those who were included in the panel for Palghat Dn., who/were ~~not~~ sent for diesel training, other direct recruits who had ranked higher than they and were allotted to the Trivandrum Division but not sent for training moved this Tribunal OA-1735/91. This Tribunal thought that the allocation of candidates between two Divisions ^{and sending them for Diesel training} ~~and~~ ignoring the combined ^{ranking} merit in the select list, would be unfair and therefore those who are higher in the merit list should be sent for diesel training first without consideration of their allocation to Trivandrum or Palghat Division. Yet a third category of applicants before us comprised regular Diesel Assistants of Palghat Division who had been registered for their request transfer to Trivandrum Division but who ^{were} ~~are~~ not given priority for absorption as Diesel Assistants in the Trivandrum Division because of ~~the~~ direct recruitment. They approached this Tribunal in OA-461/91 praying that they should be given priority over the direct recruits against the vacancies in

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the Trivandrum Division.

2. The Railway authorities have been expressing their difficulty in implementing the various final and interim orders of the Tribunal on the three categories of applications. They approached this Tribunal in RA-21/92 in OA-1735/91 and RA-48/92 in OA-461/91. Their contention has been that the number of posts of Diesel Assistants in Palghat Division is far less than the aspirants for the posts of Diesel Assistants and it may be difficult for them to accommodate all the applicants and those who are similarly circumstanced, in the diesel conversion training. It was also mentioned by Smt Sumathi Dandapani, the learned counsel for the Railways that once those surplus staff who had already been redeployed and absorbed elsewhere are sent for training, ^{for absorption as Diesel Assistants,} the efforts put in for their redeployment and absorption will go waste and it will be difficult to absorb the remaining ^{unabsorbed} steam surplus staff. To this, it was clarified to her that even if the senior steam surplus staff who had been redeployed are absorbed as Diesel Assistants on the basis of their seniority, their juniors who could not be redeployed so far but were proposed to be ^{as Diesel Assistants,} could still be absorbed absorbed/against the posts which would be released by their seniors who had been redeployed earlier but proposed to be absorbed as Diesel Assistants.

3. The applicants in OA-257/90 also moved this Tribunal in a Contempt Petition for non-implementation of the orders of this Tribunal.

4. In order to resolve the difficulties expressed by the Railway authorities in implementing the various orders passed by this Tribunal, we heard all the applications RA-21/92 in OA-1735/91, RA-48/92 in OA-461/91, OA-1735/91, OA-235/92 and OA-323/92 today. The learned counsel for the Railways Shri Tyagarajan during the last hearing was fair enough to recognise the need to provide reliefs claimed by the applicants before this Tribunal and obtained by some of them through our orders as also the practical difficulties which the Railways have been facing about the absorption of the surplus steam staff on one hand, the expectation of the selected direct recruits and of the Diesel Assistants of Palghat Division for transfer to Trivandrum Division on the other hand. After a detailed arguments advanced by ² general discussion amongst Shri MC Cherian, Mrs Dandapani, Mr P Sivan Pillai and Mr K Prabhakaran and Shri Tyagarajan, the learned counsel representing the rival parties, there was a general consensus that in order to resolve the practical difficulties in implementing the various orders passed by this Tribunal and to avoid future litigation, a scheme of priority of appointments as Diesel Assistants in Trivandrum and Palghat Division, could be drawn up in the spirit in which this Tribunal has disposed of a number of applications but without

violating as far as possible the orders and instructions and policy decisions of the Railway Board. A draft scheme was placed before us by Shri Tyagarajan with copies to other learned counsel concerned. This was further discussed and modified. A general consensus emerged that the scheme as delineated below would under the circumstances be the most reasonable, equitable and practical. The broad outline of the scheme as agreed to by all the parties is as below:

"Scheme of Priorities of absorption as Diesel Assistants in Palghat and Trivandrum Divisions"

"I. Steam surplus staff of Palghat Division and Trivandrum Division in whose favour final orders have been passed by this Hon'ble Tribunal and other steam surplus staff whether redeployed or otherwise and whose applications are pending before this Hon'ble Tribunal and the remaining steam surplus staff who satisfy the conditions prescribed by the Railway Board in their circular letter dated 15.3.90 and who have not approached the Hon'ble Tribunal will be sent for diesel conversion training course in a phased manner from the next course onwards in the order of their seniority for eventual absorption as Diesel Assistants in the order of their inter-se seniority. The steam surplus staff who have not approached this Hon'ble Tribunal will have to express their option for being sent for such

training within a period of four weeks from the date the Administration calls for their option which will not be later than 31.7.92. Subject to the final orders already passed by this Tribunal so far, the requirement of fulfilling the conditions prescribed by the Railway Board in their circular letter dated 15.3.90 for purposes of being sent for diesel conversion training is applicable to those steam surplus staff who have not yet been sent for training or who have not obtained any final order from this Hon'ble Tribunal.

II. The Diesel Assistants of Palghat Division who have registered for transfer to Trivandrum Division upto 3.3.90 will be appointed in Trivandrum Division in pursuance of the orders of the Hon'ble Tribunal in OA-461/91 as and when vacancies arise in a phased/^{manner}after priority I is exhausted.

III. The candidates recommended by the Railway Recruitment Board, Trivandrum in pursuance of the Employment Notice No. 1/90 published on 3.3.90 will be sent for training after training in Priority

I is exhausted in Palghat Division and Priority I and II are exhausted in Trivandrum Division strictly in the order of their merit position in the combined list and their absorption as Diesel Assistants will be considered strictly in their merit order as and when vacancies arise after exhausting the priorities I and II against vacancies in Trivandrum Division and Priority I in Palghat Division even though some of the candidates in the lower order of merit have already completed training and awaiting absorption. Those directly recruited candidates ^{who have} already completed training will be discharged and their cases will be considered in their turn subject to availability of the vacancies.

IV. In view of the lesser number of vacancies as Diesel Assistants being available due to large number of steam surplus staff in Palghat and Trivandrum Divisions and without treating it as forming a precedent, the candidates recommended by the Railway Recruitment Board, Trivandrum, in pursuance to Employment Notice No.1/90 will be considered for training and absorption

against vacancies of Diesel/Electrical Assistants in any other Division as the Administration may deem fit as a one time measure for filling up the vacancies as on 1.7.92 in the strict order of the combined merit list subject to the candidate giving his consent for such appointment in any other Division after successful completion of the training. Those who are thus appointed in any other Division will have no right to claim to go to Trivandrum/Palghat Divisions except by following the normal procedure for interdivisional transfer."

5. The learned counsel for all the parties in the aforesaid applications agreed that the OAs and RAs pending before the Tribunal can be disposed of in terms of the aforesaid scheme.

6. Accordingly, we direct that RA-21/92 in OA-1735/91, RA-48/92 in OA-461/91, OA-1735/91, OA-235/91 and OA-323/92 stand disposed of on the lines of the aforesaid scheme. We direct the Railway Administration to implement the scheme in the manner indicated above without delay.

7. We want to express our appreciation for the valuable assistance and cooperation extended by Shri Tyagarajan, Mrs Sumathi Dandapani, Shri MC Cherian, Shri P Sivan Pillai, Shri Tomy Sebastian and Shri K Prabhakaran, which facilitated formulation of the Scheme and disposal of the applications before us on that basis. We hope that this will put a quietus to further litigation in the matter.

8. A copy of this order be made available to the learned counsel for all the parties.

Sd/-
(AV HARIDASAN)
JUDICIAL MEMBER

Sd/-
(SP MUKERJI)
VICE CHAIRMAN

13-7-1992

CERTIFIED TRUE COPY

Date 21-7-1992

[Signature]
Deputy Registrar

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