

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 244
T. A. No.

1991

DATE OF DECISION 29.1.92

R. Nanoo Applicant (s)

Mr. C. M. Suresh Babu Advocate for the Applicant (s)

Versus

The Divisional Railway Manager Respondent (s)
Southern Railway, Trivandrum and Others

Smt. Sumathi Dandapani 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?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

MR. N. V. KRISHNAN, ADMINISTRATIVE MEMBER

The applicant was aggrieved by Annexure-I order dated 5.2.91 issued by the second respondent transferring him after promoting him as Chief Clerk on ad hoc basis from Quilon to Trivandrum. He, therefore prays for a direction to quash Annexure-I order and to post him as Chief Clerk in the present office i.e. either in the Bridge Inspector's office or Assistant Engineer's office, Quilon.

2. The respondents have filed a reply in which it is stated that immediately after the issue of Annexure-I transfer order, the applicant filed a representation dated

26.3.91 in which it is stated that he was not willing to go to Trivandrum on ad hoc promotion for various personal reasons mentioned therein and that he had been requesting for a transfer to the office of the Assistant Engineer, Quilon as Chief Clerk. He stated therein that a vacancy has arisen due to the transfer of one V. Ananthakrishna Pillai and he may be transferred to AEN Office, Quilon in that vacancy. This request was considered by the respondents and ~~xx~~ was allowed ~~to wait~~ ^u and Ext. R-2 order by which he was permitted to, retain ~~as~~ ^u as Headclerk in Quilon. ^u ~~in the AEN's Office~~ He was however, debarred for further promotion for a further period of one year from 26.3.91. Apparently, realising their own mistake, the respondents modified Ext. R-2 order by order ^{u (Ex R3)} dated 24.4.91, by which the intimation regarding debarring from him/further promotion for one year as indicated in Ext. R-2 order was deleted. The applicant was informed that he will be considered for selection for the post of Chief Clerk as per normal procedure whenever such selection is held.

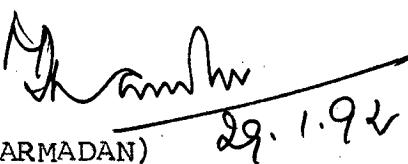
3. In view of the fact that the main objection of the applicant was, transfer to Trivandrum and ^{u his} ^{u as} unwillingness ^{u for} transfer to Trivandrum was accepted by the respondents and he was allowed to be retained at Quilon itself, we are of the view that nothing remains for adjudication in this application. Accordingly, this application deserves to be closed as having become infructuous. ^{However} ~~Further~~, the learned counsel for the applicant submitted that it is not necessary

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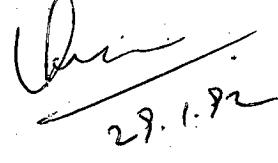
that a post of Chief Clerk should exist to consider him for promotion as seems to be the impression given by Ext. R-3 letter. He submits that even now it will be possible for the respondents to consider his selection for the post of Chief Clerk at Quilon on ad hoc basis.

4. That is a separate matter and we make it clear that notwithstanding this judgment, the applicant may submit, within two weeks from the date of receipt of this judgment, a detailed representation requesting for such ad hoc selection to the post of Chief Clerk at Quilon itself, indicating the post on which he stakes such a claim and in case such a representation is received as above, the second respondent is directed to consider the representation within a period of two months from the date of its receipt and pass appropriate orders in accordance with law. It is needless to say that in case the applicant is aggrieved by the final order that may be passed as directed above, he is at liberty to seek redressal, if so advised.

5. With these observations and directions, we close this case as having become infructuous.


(N. DHARMADAN)
JUDICIAL MEMBER

kmn


(N. V. KRISHNAN)
ADMINISTRATIVE MEMBER

29.1.92