

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 246/2009

This the 23rd day of November, 2009.

CORAM

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

A. Abdul Hameed
Tech Grade-I C&W
SSE/C & W/G/QLN
Southern Railway
Trivandrum.

Applicant

By Advocate Mr.V.G. Sankaran

Vs.

- 1 The Divisional Railway Manager
 Southern Railway
 Thiruvananthapuram
- 2 The Divisional Personal Officer
 Southern Railway
 Thiruvananthapuram.
- 3 The Senior Divisional Mechanical Engineer
 Southern Railway
 Thiruvananthapuram.

Respondents

By Advocate Mr Thomas Mathew Nellimoottil

The Applications having been heard on 5.11.2009, the Tribunal delivered the following

ORDER

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant working in the Carriage & Wagon Depot at Kollam challenges his transfer to Kochuveli, Thiruvananthapuram.

- 2 The applicant is a Technician Grade-I working in the Mechanical Branch of the Southern Railway, Thiruvananthapuram Division in the Carriage

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& Wagon Section at Kollam w.e.f. 26.2.1999. He has his family and children at Kollam and his children are studying at various grades at TKM Public School, Kollam. While so, the authorities decided to shift the Carriage and Wagon Depot to Kochuveli, Thiruvananthapuram. The employees submitted representation. The authorities however, closed the Depot at Quilon retaining Sri N.K. Vimalkumar alone at Kollam. The applicant was relieved on 2.4.2009 after closure of the academic year (A-3). He was not given any joining time or pass issued to him. Even though 10 persons were transferred, the applicant and two others were relieved. Aggrieved, he filed this O.A. to quash Annexure A-2 and A-3 and for a declaration that he is entitled to be retained in Kollam. The main grounds urged in the O.A are that (i) it is arbitrary and illegal and cause hardship to him, (ii) the authority has not acted in a fair and reasonable manner, the applicant being the senior most ought to have been retained in Kollam, (iii) they have retained persons of their choice at Kollam itself in spite of the transfer orders and (iv) the transfer norms has not been looked into while ordering the transfer.

3 The respondents at the outset opposed the Application on the grounds that the transfers ordered in the administrative interest are not liable to be impugned before the Court unless malafide is alleged and that the applicants has not impleaded necessary and proper parties or the Union against whose alleged intervention certain employees are retained at Kollam. On merits, they submitted that the applicant has not raised any valid reason for challenging the transfer order. They submitted that consequent on the reduction of activities in the Carriage & Wagon Maintenance Depot at Kollam due to closure of Kollam Shencottah Metre Gauge Line an administrative decision was taken to reduce the strength in carriage & Wagon Depot at Kollam and correspondingly to augment the strength of staff at Kochuveli. They have also relied on the judgments in Nimalendu Bhardan Vs. GM, NF Railways (1986(2)SLJ(CAT)108), Sudhir Prasad Jain vs. UOI (1986 (2)SLJ

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(CAT) 278) , UOI Vs. H.N. Kirtanis (1989(3)SLJ 44(SC), CK Chacko Vs. Sr. Dy. Director General, Geological Survey of India, Hyderabad (1988(2)SLJ (CAT) 330 to the effect that transfer of public servants on administrative grounds or in public interest should not normally be interfered with.

4 I have heard learned counsel for the parties.

5 It is seen that though the applicant was ordered to be transferred way back in 2.1.2009, he was relieved only on 3.4.2009, thus the allegation of transfer during the academic year is found wrong. According to his own submission, the other two employees who were transferred along with him in Annexure A-2 have already joined the new place. Neither has he mentioned the name of his juniors transferred to Kochuveli but retained at Kollam nor produced any seniority list to show that those retained at Kollam are his juniors. Moreover, Kochuveli is not a place far away from Kollam. The averment of personal hardship cannot be urged as a reason for challenging a transfer order.


6 It is settled law that transfer is an incident of service and that the wheels of administration should be allowed to run smoothly and the courts and Tribunals are not expected to interdict the working of the administrative system by transferring the officials. It is for the administration to take proper decision and such decisions shall stand unless they are violative either by malafides or by extraneous consideration without any vital background foundation. (See 2008(3)CAT 323). I notice that transfer order has been issued on the administrative ground of shifting the Carriage & Wagon Depot to Kochuveli. An employee has no legal right to be posted to a particular place of his choice. It is for the administrative authorities in the Railways to decide as to who should be posted to a particular place. It is presumed that interests of the employees will also be

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given due consideration, subject to the needs of administration. Therefore, I cannot find any convincing ground to interfere with the order of transfer of the applicant from Kollam to Kochuveli.

7 In this view of the matter, I do not find any reason to interfere with the transfer of the applicant. The O.A is dismissed. The interim stay granted by order dated 29.4.2009 is vacated. No costs.

Dated 23rd November, 2009


K. NOORJEHAN
ADMINISTRATIVE MEMBER

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