

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 250 1993

DATE OF DECISION 1.3.93

V. Sadanandan _____ Applicant (s)

Mr. Asok M. Cherian _____ Advocate for the Applicant (s)

Versus

The Chief Project Manager, Southern Railway, Egmore, Madras and others Respondent (s)

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

CORAM :

The Hon'ble Mr. N. DHARMADAN JUDICIAL MEMBER

The Hon'ble Mr.

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

An Executive Engineer, who is to retire on 30.9.93 from the Railway service has filed this application challenging the order of transfer Annexure A-1 dated 7.12.92 transferring him from Trivandrum to Bangalore. His representation Annexure-A-4 against the transfer was also rejected by Annexure A-2 dated 22.1.93. The only point strongly urged by learned counsel for applicant is that the applicant is to retire within 7 months and the transfer is against the policy that is being following by the Railways in the matter of transfer. It has been accepted by the Railways that a person who is to retire within a period of one year will not be disturbed from the place where he is working. He has relied on Annexure A-3 and submitted that

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staff due to retirement from the date of approval of promotion by a competent authority will be allowed to continue on promotion at the same station on account of the fact that the hardships due to transfer at the fag end of service can be avoided. According to him, even though the applicant was not promoted, the principle in Annexure A-3 applies to him and he is to be continued at Trivandrum till his retirement.

2. Respondents in the reply statement submitted that transfer has been issued in the administrative exigency when it was found that service of the applicant was found not necessary at Trivandrum and even though the project in which applicant was engaged was not wounded, the continuance of an Executive Engineer became unnecessary and his service can be utilised by the Railway at the transferred place. In all other places pointed out by the applicant, executive engineers are engaged and they are in the midst of the work entrusted with them and hence, there is no other place in which the applicant can be accommodated to continue at Trivandrum.

3. Applicant has filed a rejoinder denying the statements made in the reply and pointed out places in which he can be re-transferred.

4. ^{Having heard} Having heard counsel appearing on both sides, I am of the view that the fact that the applicant is to retire on 30.9.93 is one of the major points to be considered in his favour. His representation Annexure A-4 was considered and disposed of by Annexure A-2. But there is no consideration of the main point which the applicant has raised in the representation. Having regard to the facts and circumstances of the case, I am not inclined to allow the application and quash the impugned order but dispose of the application with certain observations. I would observe that the applicant's request for re-transfer to Trivandrum on account of his retirement on

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30.9.93 is a genuine ~~xxx~~ which requires to be considered sympathetically by the competent authority. If the applicant joins the transferred post at Bangalore and files an application for re-transfer to Trivandrum, I hope, the respondents will consider and dispose of the same in accordance with law, notwithstanding the stand taken by them in the reply filed in this case, especially in view of the policy of the Railways that employees due to retire within a period of one year shall be given the facility of retirement from the native place. This shall be done within a period of one month from the date of receipt of such an application from the applicant.

5. The application is disposed of as indicated above.
6. There shall be no order as to costs.


(N. Dharmadan)
Judicial Member
1.3.93

1.3.93

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