

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.267/04

Wednesday this the 2nd day of March 2005

C O R A M :

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

D.Jayakumar,
S/o.Damaodaran Nair,
Commercial Clerk/Booking Office, Trivandrum Central.
Residing at : Nediyavila Veedu,
Vazhattukonam, Kodunganoor P.O.,
Vattiyur Kavu, Trivandrum.

Applicant

(By Advocate Mr.T.C.Govindaswamy)

Versus

1. Union of India represented by
the General Manager,
Southern Railway, Headquarters Office,
Park Town P.O., Chennai - 3.
2. Chief Personnel Officer,
Southern Railway, Headquarters Office,
Park Town P.O., Chennai - 3.
3. Senior Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum - 14.
4. Senior Divisional Commercial Manager,
Southern Railway, Trivandrum Division,
Trivandrum - 14.
5. The Station Manager,
Southern Railway,
Trivandrum Central Railway Station,
Trivandrum.

Respondents

(By Advocate Mr.P.Haridas)

This application having been heard on 2nd March 2005 the
Tribunal on the same day delivered the following :

O R D E R

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

The applicant Commercial Clerk in the Booking Office of
Southern Railway, Trivandrum Central Station has filed this
application for a declaration that the very foundation of
Annexure A-1 order of temporary transfer to Palghat Division was
no longer in existence and therefore giving effect to the said

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order is arbitrary, discriminatory and unconstitutional and for setting aside the order dated 31.3.2004 by which he is ordered to be relieved. The facts necessary for the disposal of the application can be stated as follows :-

2. While the applicant was working as Commercial Clerk in the Central Station, Trivandrum as a result of vigilance check and alleged detection of indulgence of malpractice disciplinary proceedings against the applicant was initiated and he was by Annexure A-1 order dated 23.6.2000 transferred to Palghat Division as a temporary measure directing that the lien of the applicant would continue to be maintained at Trivandrum until further orders. The applicant challenged Annexure A-1 order by filing O.A.832/00. However noting that it was a temporary transfer, and disciplinary proceedings were pending against the applicant the Tribunal vide its order dated 28.7.2000 rejected the application. However, it was observed that it was expected that the respondents would complete the disciplinary proceedings without undue delay and would consider the transfer of the applicant back. The inquiry was held and completed and the applicant was awarded penalty which he challenged in an appeal. As appeal and revision were unsuccessful the applicant challenged the order in another O.A. which is pending. The impugned order Annexure A-1 was not given effect to so far. However by Annexure A-6 order dated 31.3.2004 the applicant was ordered to be relieved on the basis of Annexure A-1 order. It was under these circumstances the applicant has filed this application seeking the reliefs as aforesaid.

3. The respondents resist the claim of the applicant. They have filed a detailed reply statement and it has been contended that it was with a view to give effect to the Railway Board's letter Annexure R-1 as also letter dated 11.4.2000 of the Chief Vigilance Officer that the applicant was transferred with a view to remove the applicant from the scene where he had indulged in malpractice. The respondents contend that this action is unexceptionable and plead that the Tribunal may not interfere.

4. I have heard the learned counsel on either side. Learned counsel of the applicant submitted that the application may now be disposed of permitting the applicant to make a detailed representation to the General Manager (1st respondent) bringing to notice the personal problems of the applicant as also the fact that the inquiry is over and seeking retention at Trivandrum and directing the 1st respondent to consider such representation and to give him an appropriate reply keeping in abeyance the relief of the applicant on the basis of the impugned order. Learned counsel for the respondents also have no objection in disposing of the O.A. in such a manner.

5. In the light of what is stated above the application is disposed of permitting the applicant to make a representation to the 1st respondent seeking retention at Trivandrum explaining the personal problems as also the fact that inquiry has since been completed within two weeks from today and directing the 1st respondent that if such a representation is received the same shall be considered and disposed of giving an appropriate reply to the applicant and that till such an order is served on the

applicant he shall not be relieved from the present place of posting at Trivandrum on the basis of the impugned order. No order as to costs.

(Dated the 2nd day of March 2005)



A.V. HARIDASAN

VICE CHAIRMAN

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