

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.285/04

Wednesday this the 23rd day of June 2004

C O R A M :

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR. H.P.DAS, ADMINISTRATIVE MEMBER

1. Southern Railway Catering Employees Co-ordination Committee, Trivandrum Division represented by K.Charles Robert, S/o. K.V.Robert, Convener & Chief Catering Inspector, Southern Railway, Ernakulam Junction,
2. K.R.Murali, S/o.Raghavan, Joint Convener, Catering Supervisor Grade II, Southern Railway, Ernakulam Junction.
3. K.K.Ali, S/o. Abubacker, Server, Southern Railway, Kerala Express, Trivandrum Division.
4. A.R.Ramanarayanan, S/o.A.Ramanathan, Assistant Cook, Southern Railway, Kerala Express, Trivandrum. Applicants

(By Advocate Mr.T.C.Govindaswamy)

Versus

1. Union of India represented by the Secretary and Chairman to the Govt. of India, Ministry of Railways, Rail Bhavan, New Delhi.
2. The General Manager, Southern Railway, Headquarters Office, Park Town P.O., Chennai - 3.
3. The Chief Commercial Manager, Southern Railway, Headquarters Office, Park Town P.O., Chennai - 3. Respondents

(By Advocate Mr.P.Haridas)

This application having been heard on 23rd June 2004 the Tribunal on the same day delivered the following :

O R D E R

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

The 1st applicant, Southern Railway Catering Employees Co-ordination Committee, Trivandrum Division represented by its Convener and applicants 2, 3 & 4 who are said to be affected persons and the office bearers of the said Committee have filed this application for the following reliefs :

- a. declare that the refusal on the part of the respondents to grant the applicants' prior option either to be retained in the Railway service or to be transferred to the IRCTC is arbitrary, discriminatory and unconstitutional.
- b. direct the respondents to grant the applicants prior option either to be retained in Southern Railway, Trivandrum Division, or to be transferred to the IRCTC and direct further to treat those who seek retention in Southern Railway as Surplus Staff if need be and to grant consequential benefits of re-deployment as provided for in Annexure A-4 and other subsequent orders of the Railway Board ; or in the alternative
- c. direct the respondents to take a final decision on Annexure A-3 and to communicate the same to the 1st applicant within a time limit as may be found just and proper by this Hon'ble Tribunal, and at any case before final handing over of the Catering Management of the Departmental Units of Southern Railway, Trivandrum Division to the IRCTC.

2. It is alleged in the application that on implementation of the Board's decision contained in Board's proceedings dated 4.2.2003 (Annexure A-1) the catering activities of the Railway along with the catering staff are being transferred to IRCTC which is a Corporation, that the catering staff who are members of the 1st applicant's Committee have not been given a prior option either to continue with the Railways or to be absorbed in IRCTC, that objecting to the proposal contained in Annexure A-2 the 1st applicant had submitted Annexure A-3 representation to the Chairman, Railway Board, that the decision on the said representation has not so far been taken and that if the handing over of activities as also the staff takes place without

affording the applicants a prior option they would be put to irreparable loss the applicants have filed this application for the aforesaid reliefs.

3. Although Shri.P.Haridas took notice on behalf of the respondents and had sought time to get instructions, he states that no instructions has been received so far. However, we have decided to peruse the application and materials placed on record and to decide the question of admission after hearing the learned counsel of the applicants. Since the counsel for the respondents has not shown any response to the directions of the Tribunal to get instructions and make statement, with a view to see whether the applicants have any valid cause of action we have with meticulous care gone through the application as also annexures appended thereto. It appears that the Railway Administration has decided to transfer the catering activities to IRCTC along with staff and also decided to give opportunity to the staff for option either to get absorbed in the IRCTC or to revert back to the Railway in which event they would be dealt in accordance with the rules and instructions regarding Surplus Staff. The learned counsel for the applicants stated that the grievance of the applicants is that if they are not given prior option before they are handed over to the IRCTC they would face undue hardship and therefore before handing over the staff the members of the 1st applicant's Committee should be given an opportunity to exercise their prior option. We do not find any justifiable reason for the grievances on the part of the applicants. If the catering activities are transferred without the staff all of a sudden the activities would come to a standstill and neither the Railway Administration nor the IRCTC would be in a position to carry out

the catering activities. Therefore, handing over the activities as also the staff should naturally be simultaneous. The interest of the applicants or similarly situated others are in no way affected because in Annexure A-2 it has been clearly stated that they would have an opportunity to express their option within a period of three years which infact is a longer time to opt than a prior option which would be more advantageous to the employees. Further as on date no order prejudicial to the applicants' interests has been issued. If an order for handing over of the staff including the applicants is issued and if the applicants' rights are adversely affected the applicants may have a cause of action. However, no such thing has happened. We find that the application is premature now.

4. In the light of what is stated above the application is rejected under Section 19(3) of the Administrative Tribunals Act, 1985.

(Dated the 23rd day of June 2004)

H. P. Das

H.P.DAS
ADMINISTRATIVE MEMBER

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A.V. HARIDASAN
VICE CHAIRMAN