

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 304 of 2004

Thursday, this the 17th day of June, 2004

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. S.K. HAJRA, ADMINISTRATIVE MEMBER

1. K.K. Rajan, S/o K Krishnan Kutty Nair,
Diesel Assistant, Southern Railway,
Ernakulam South
Residing at: "Sreenilayam", Vilangattuparambu,
S.C. Bose Road, Edappally North,
Ernakulam District.
2. K. Gangadharan, S/o Kesavan Nair,
Diesel Assistant, Southern Railway,
Ernakulam South,
Residing at: Railway Quarter No. 130-E,
Ernakulam South, Ernakulam.
3. E.A. Abdul Khader, S/o A. Ahmed Kutty,
Diesel Assistant, Southern Railway,
Ernakulam South,
Residing at: Railway Quarter No. 144-G,
Ernakulam South, Ernakulam.
4. K.P. Varghese, S/o K.A. Papputty,
Diesel Assistant, Southern Railway,
Ernakulam South,
Residing at: No.114-D, Railway Quarters,
Ernakulam South, Ernakulam.Applicants

[By Advocate Mr. T.C. Govindaswamy]

Versus

1. Union of India represented by the
General Manager, Southern Railway,
Headquarters Office, Park Town Po, Chennai-3
2. The Chief Personnel Officer,
Southern Railway, Headquarters Office,
Park Town PO, Chennai-3
3. The Divisional Railway Manager,
Southern Railway, Trivandrum Division,
Trivandrum-14
4. The Divisional Railway Manager,
Southern Railway, Chennai Division, Chennai-3
5. Sri C. Sethu,
Shunting Driver, Southern Railway,
Crew Booking Office, Quilon.

6. Sri S. Babu Rajan,
Goods Driver, Southern Railway,
Office of the Chief Crew Controller,
Arkonam Junction, Arkonam, Tamil Nadu Respondents

[By Advocate Smt. Rajeswari Krishnan (R1 to R4)]

The application having been heard on 17-6-2004, the Tribunal on the same day delivered the following:

O R D E R

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

Applicants, 4 in number, who are Diesel Assistants of the Trivandrum Division of Southern Railway, aspiring to get promotions as Shunting Drivers, have filed this application challenging Annexure A1 order dated 15-4-2004, by which their representation against the proposed mutual transfer between respondents 5 and 6 has been rejected, for a declaration that respondents 5 and 6 have no right to get themselves "mutually exchanged" between Trivandrum Division and Chennai Division of Southern Railway. Applicants had earlier filed OA.No.124/2004 apprehending that if the mutual transfer between respondents 5 and 6 would take place, their chances for promotion would be obliterated. That application, however, was disposed of as conceded by the counsel on either side that the matter be disposed of with a direction to the 1st respondent to consider and take an appropriate decision in the matter. In obedience to the above direction, the 1st respondent General Manager has considered the representation of the applicants objecting to the mutual transfer and has issued a speaking order (Annexure A1). It is aggrieved by that this application has been filed by these applicants. It is alleged in the application that respondents 5 and 6 who are not in the identical category are not entitled to mutual transfer, that if the mutual transfer is allowed the chances of applicants for promotion as Shunting Drivers would be obliterated, that the mutual transfer has not been granted in public interest but for extraneous

considerations and that therefore the order for mutual transfer as also Annexure A1 order disposing of the representation are unsustainable.

2. Although Smt.Rajeswari Krishnan took notice on behalf of respondents 1 to 4, no statement has been filed. The matter has come up again today. As there is an interim order of status quo, we decided to consider the application for admission after hearing the learned counsel of the parties and perusing the original application and annexures.

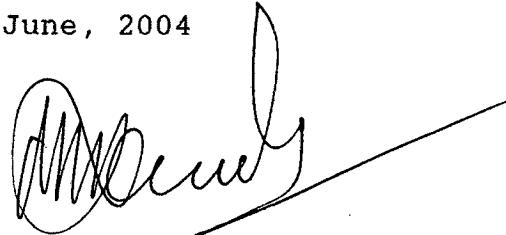
3. Having carefully perused all the materials available on record and on hearing Shri T.C.Govindaswamy, the learned counsel of the applicants and the learned counsel of the respondents, we do not find that there is any legitimate grievance of the applicants which calls for admission and further deliberation of this application. Mutual transfers of Railway servants have been permitted by rules if they are in identical categories. The respondents 5 and 6 have been on their requests reverted as Shunting Drivers in the scale of Rs.4000-6000 as stated in para 1 of the impugned order as also admitted in the application and transferred mutually. This is perfectly in accordance with the rules and instructions. The request for mutual transfer was considered by the competent authorities and finding that the request being bonafide was allowed as the competent authority decided that it would not cause any administrative problems. The wild allegation that the mutual transfer has been made for extraneous consideration has only to be mentioned and rejected because no allegation of malafides has been specifically raised and the authority which allowed the transfer has not been impleaded by name. Further no legal right of any of the applicants has been violated. The allegation that the 6th respondent would stay for a longer time

in service than the 5th respondent and therefore the rights of the applicants for promotion would be adversely affected is a far fetched claim because if that is taken as a prohibitory factor no mutual transfer can be allowed. The General Manager has considered the objections raised in the applicants' representation and has given a very detailed speaking order with which we do not even prima facie find any infirmity calling for judicial intervention. Transfer of any official on administrative grounds and granting mutual transfer etc. are routine administrative matters where judicial intervention would be justified only if malafides or infraction of rules are noticed. In this case, we do not find any such circumstances, even properly alleged.

4. In the light of what is stated above, finding that there is nothing in this case which calls for further detailed consideration, the Original Application is rejected under Section 19(3) of the Administrative Tribunals Act, 1985. No costs.

Thursday, this the 17th day of June, 2004


S.K. HAJRA
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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