

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No. 31 OF 2005

Monday, this the 25th day of July, 2005.

CORAM :

HON'BLE Mrs. SATHI NAIR, VICE CHAIRMAN
HON'BLE Mr.K.V.SACHIDANANDAN, JUDICIAL MEMBER

P. Muthuveeran
Cabinman – I
Pugalur Railway Station
Southern Railway, Palghat Division
Residing at 19/B, Railway Colony, Pugalur
Kagithapuram P.O.
Karur District

: Applicant

(By Advocate Mr. Martin G.Thottan)

Versus

1. The Chief Personnel Officer,
Southern Railway
Headquarters Office, Chennai – 3
2. The Senior Divisional Personnel Officer
Southern Railway, Palghat Division
Palghat
3. The Senior Divisional Safety Officer
Southern Railway, Palghat Division
Palghat
4. T.Periasamy, Pointsman A,
Sankiri Durg Railway Stations
Southern Railway, Sankiri Durg
Salem District

: Respondents

(By Advocate Mrs. Sumathi Dandapani)

The application having been heard on 25.07.2005, the Tribunal on the same day delivered the following :

ORDER

HON'BLE Mrs. SATHI NAIR, VICE CHAIRMAN

The applicant ~~is~~ working as Cabinman – I at Pugalur Railway Station in Palghat Division is aggrieved by Annexure A-1 order by which he was transferred to Sankiri Durg Railway Station and posted as Pointsman-1.

The transfer order is challenged mainly on the ground that the 3rd respondent who passed the transfer order belongs to the Safety Department and he is not having the control over the post belonging to the operating department. The applicant also submitted that transfer is effected during the middle of the Academic year and has affected his children's studies. An interim order was granted to maintain status quo on 11.01.2005 and the applicant is continuing in that post.

2. Respondents have filed a statement denying the contention of the applicant that he does not come under the control of the Divisional Safety Officer. They have enclosed copies of the order of promotion and transfer granted vide Annexure R 3 (1) by the 3rd respondent in the year 2001 and also the representation the applicant submitted to the same officer requesting him to transfer to Pugulur. It is also mentioned therein that certain complaints were received against the applicant and in the interest of the administration he is being transferred and no malafides have been alleged.

3. The applicant has also filed a rejoinder stating that he has been transferred on the complaint of a local leader and there is no administrative interest involved in the transfer. The learned counsel on the applicant's side argued that the Railway Board's circular dated 16.10.1973, held that disciplinary action should be initiated and finalised by the authorities under whose administrative control the delinquent employee may be working. Applying the same principle, the counsel for the applicant argued that Senior Divisional Safety Officer cannot initiate disciplinary proceedings over an employee belonging to the operating department as he has no administrative control over the employees belonging to the operating department as in the instant case.

4. The learned counsel for respondents states that the applicant has not alleged malafides against the 3rd respondent or any other officer and Annexure R3 (1) and R-3 (2) are sufficient proof to show that the 3rd respondent has the administrative control over the applicant.

by

5. After hearing the counsel on both sides, we are inclined to agree with the contention of the respondents that transfer is affected purely on administrative ground since the applicant has been posted for four years at the present station. It is well settled law that transfer is an incident of public service and it is purely the discretion of the administrative authority to consider the deployment of persons according to the needs of the situation in the interest of administration.

6. The applicant has not been able to show that there is any violation of policy guidelines, if any relating to transfers. The point is that of jurisdiction. Annexure A-2 stipulates the delegation of powers of various authorities according to which Senior Scale Officers have full powers in respect of Group 'C' and 'D' under their control. The contention that Sr. Divisional Safety Officer who has issued the transfer order does not have any control over the applicant is wrong. The orders at Annexure R 3(1) and the request of the applicant at Annexure R3 (2) show that the applicant is under the control of the Sr. Divisional Safety Officer. Hence we reject this contention and there are no grounds to interfere with the transfer.

7. The learned counsel for respondents submitted that the applicant will be allowed to retain the quarters till the end of this academic year in the present station where he was working and it is noted.

8. The Original Application is dismissed at the admission stage. No orders as to costs.

Dated, the 25th July, 2005.



K.V.SACHIDANANDAN
JUDICIAL MEMBER



SATHI NAIR
VICE CHAIRMAN