

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 31 AND 32 OF 2010

Wednesday, this the 13th day of January, 2010

CORAM:

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

HON'BLE Ms.K.NOORJEHAN, ADMINISTRATIVE MEMBER

1. OA 31 OF 2010 :

T.K.Muraleedas

Station Master Gr.I /Southern Railway

Office of the Crew Management System, Shornur

Residing at - ' Krishna Sree', Kunnathoor House

Chathencherry Parambu, Kundukattil Road

Shornur – 679 121

... Applicant

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(By Advocate Mr.TCG Swamy)

versus

1. Union of India represented by the
General Manager
Southern Railway, Headquarters Office
Park Town P.O., Chennai – 3

2. The Additional Divisional Railway Manager
Southern Railway, Palghat Division
Palghat

3. The Senior Divisional Personnel Officer
Southern Railway, Palghat Division
Palghat

4. The Senior Divisional Operations Manager
Southern Railway, Palghat Division
Palghat ... Respondents

(By Advocate Ms.P.K.Nandini)

2. OA 32 OF 2010 :

Baburaj Valasserry

Tower Wagon Driver/Southern Railway

Office of the Divisional Electrical Engineer,

Traction Distribution / Palghat

Residing at - ' Arund', Near Madrassa Hall

Shornur ...

Applicant

(By Advocate Mr.TCG Swamy)

versus

1. Union of India represented by the
General Manager
Southern Railway, Headquarters Office
Park Town P.O., Chennai - 3
2. The Additional Divisional Railway Manager
Southern Railway, Palghat Division
Palghat
3. The Senior Divisional Personnel Officer
Southern Railway, Palghat Division
Palghat
4. The Divisional Electrical Engineer
Traction Distribution, Southern Railway,
Palghat Division
Palghat ... Respondents

(By Advocate Mr. Sunil Jacob Jose)

The applications having been heard on 13.01.2010, the Tribunal on the same day delivered the following:

ORDER

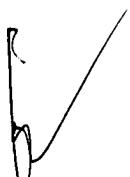
HON'BLE Dr. K. B. S. RAJAN, JUDICIAL MEMBER

These applications have been filed seeking identical reliefs as mentioned below:

- (a) *Call for the records leading to the issue of A-1 to the extent it relates to the applicant and quash the same;*
- (b) *Direct the respondents to consider the applicant for absorption in an equivalent grade in any one of the cadres like Ticket Checking, Commercial Clerks, Commercial Inspector, Ministerial etc. under the respondents forthwith and direct further to grant all consequential benefits arising there from.*

2. Identical prayers have been made in an earlier OA No. 24/2010 and this Tribunal in that case has held as under:-

"The applicant is aggrieved by Annexure A-1 order dated 05.01.2010. By the said order medically decategorized staff has been transferred and posted to different Units /



Stations on the same pay and grade pay on administrative grounds with immediate effect. They were transferred alongwith the supernumerary post.

2. *The contention of the applicant is that he is a person medically de-categorized requiring medical classification Cee-one and below. There is no post called UTS and the medical classification required to discharge the functions of the duties has also not been identified. He has also submitted that he was medically categorized during 2005 and despite passage of 4 years, the respondents have not taken any steps to provide the applicant with an alternative appointment in any of the cadres to which the applicant is suitable like the Ticket Checking cadre, Commercial Clerks cadre, Commercial Inspectors cadre, Office Clerks cadre etc. He was found medically unfit on account of health problems and therefore posting him to UTS/KMQ near Mangalore, which is far away from Shornur is arbitrary, discriminatory, contrary to law and hence unconstitutional.*
3. *We have heard the learned counsel for the parties. In our considered view, this OA can be disposed of without notice to respondents at admission stage itself by permitting the applicant to make representation to Respondent No.1, viz., The General Manager, Southern Railway, Headquarters Office, Park Town P.O., Chennai against the aforesaid Annexure A-1 order dated 05.01.2010 so that the authority concerned can take appropriate action in the matter depending upon the merits of the case.*
4. *We therefore, direct that the applicant may submit a detailed representation to Respondent No.1 within a weeks' time positively. In any case, such a representation is received within the permitted time, Respondent No.1 shall consider the same in accordance with rules and dispose of the representation with a reasoned and speaking order. Till such time, the applicant's transfer to UTS/KMQ shall remain stayed. There shall be no order as to costs.*

3. As the order impugned in the above OA and that in the present OAs are one and the same as the counsel for both the parties have admitted that the facts in the instant OAs are identical to that in OA No. 24/10, the above order shall equally apply to the instant OAs.

4. Accordingly we direct that the applicants may submit a detailed representation to Respondent No.1 within a weeks' time positively. In any case, such a representation is received within the permitted time, Respondent No.1 shall consider the same in accordance with rules and dispose of the representation with a reasoned and speaking order. Till such time, the applicants transfer to UTS/KMQ shall remain stayed. There shall be no order as to costs.

Dated, the 13th January, 2010.

mm -
K.NOORJEHAN
ADMINISTRATIVE MEMBER


Dr.K.B.S.RAJAN
JUDICIAL MEMBER

VS