

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.313/10

Monday this 26th day of July, 2010

CORAM:

HON'BLE MR.JUSTICE K.THANKAPPAN,JUDICIAL MEMBER
HON'BLE MR.K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER

N.Manoj,
S/o N.Navabudeen,
Asst. Loco Pilot,
Southern Railway, Erode,
Residing at Banglavu purayidom,
Near T.B.Hospital, Kollam.

..Applicant

By Advocate: Sri M.P.Varkey

vs.

1. Union of India represented by
General Manager,
Southern Railway,
Chennai-600003.

2. Chief Personnel Officer,
Southern Railway,
Chennai-600003.

3. Sr.Divisional Personnel Officer,
Southern Railway,
Trivandrum-695014.

4. Divisional Personnel Officer,
Southern Railway,
Salem-636001.

..Respondents

By Advocate: Shri P.Haridas

The Application having been heard on 19.07.2010, the Tribunal on 26.07.10 delivered the following:-

ORDER

HON'BLE MR.JUSTICE K.THANKAPPAN, JUDICIAL MEMBER:

Aggrieved by the order dated 14.12.09 passed by the Senior Personnel Officer, Southern Railway, Personnel Branch, Chennai, the applicant has filed this O.A. The applicant was appointed as Assistant Loco Pilot under a scheme called 'Safety Related Retirement Scheme' as the applicant's father one S.Navabudeen retired from service while he was working as Loco Pilot(Passr)II under the 'Safety Related Retirement Scheme'(hereinafter be referred to as the 'Scheme'). The said Scheme is introduced by the Railways on 2.1.2004 for giving employment to the wards of voluntarily retiring employees especially for Drivers who complete 33 years of service in the Railways. The applicant so applied for the post and was appointed as Assistant Loco Pilot and sent for departmental training and after completion of the training successfully, the applicant was allowed to join in SA Division, Chennai. While so, as per the stipulations and conditions contained in the Scheme and as per the assurance given to the applicant vide the offer of appointment dated 12.1.2009 he



applied for a transfer to the Thiruvananthapuram Division which was rejected by the impugned order dated 14.12.2009, a copy of which is produced in the O.A. as Annexure A6. In the above circumstances, the applicant has filed this O.A.

2. The O.A. has been admitted by this Tribunal and the respondents were directed to file reply statement, if any, in the matter. The case was adjourned for this purpose several times. However on 1st July, 2010, a reply statement has been filed for and on behalf of the respondents. The stand taken in the reply statement is that the applicant was eager to be appointed anywhere in the Southern Railway as and when he has completed the training and he was posted at Salem Division for which the willingness of the applicant was also sought. If so, the applicant cannot claim a transfer immediately to the Thiruvananthapuram Division. Further stand taken in the reply affidavit is that as there is an interim order passed by this Tribunal in O.A.No.545/2008, his case cannot be considered.

3. We have heard the counsel appearing for the applicant




Mr.M.P.Varkey and Mr.P.Haridas appearing for the respondents. The learned counsel appearing for the applicant invited our attention to the Scheme (Annexure A1) in which it is specifically stated that the Scheme is applicable to the wards of voluntarily retiring employees under the 'Safety Related Retirement Scheme'. Since the Scheme itself provides that such dependents or wards may give a choice for their posting and further the counsel invited our attention to the offer of appointment in which it is stated that the initial posting and subsequent promotion will normally be in Thiruvananthapuram Division, though this condition will be changed in exigencies of service. The counsel further submits that as the applicant has already filed Annexure A3 representation to have a posting at Thiruvanthapuram, the grounds urged in the reply statement are not sustainable. Hence this Tribunal may allow the Application and quash Annexure A6 order rejecting the claim of the applicant. The above contentions were resisted by the counsel appearing for the respondents on the ground that since there were Court cases pending including an interim order passed in O.A. No.545/2008 the case of the applicant cannot be considered and it is the discretion of the Department to consider his case.

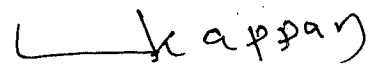


4. The short question to be answered is that whether the stand taken by the Department is correct or not. It is an admitted fact before us that as per the Scheme those employees who are completing 33 years of regular service will be eligible for voluntary retirement with a further offer of employment to his ward. The father of the applicant voluntarily retired under the Scheme affording an opportunity of employment to his son. As per Annexure A2 offer of appointment it is also stated that "Your initial posting and subsequent promotion will normally be in Thiruvananthapuram, but you remain liable in the exigencies of service to be transferred anywhere in the Southern Railway system". A reading of the above stipulation contained in Annexure A2 offer would clearly indicate that unless and until any exigencies exist or arise for not posting the applicant outside Thiruvananthapuram Division, he is entitled to be posted at Thiruvananthapuram Division itself. The applicant has completed his training and though he was allowed to join at Salem Division he is entitled for a posting at Thiruvananthapuram Division and if so, the stand taken by the Department is not fair and legal. That apart the objection raised



in the reply statement that the interim order passed in O.A.No.545/2008 bars the authorities to give a posting to the applicant to Thiruvananthapuram Division is incorrect. The said O.A. has been already dismissed by this Tribunal and even if any such restriction for transfer from Salem to Thiruvanthapuram or Palghat to Thiruvanthapuram or any other such transfer, that is not applicable to the case of the applicant. If so, the application succeeds. Accordingly the O.A. is allowed. The respondents 1 to 3 are directed to reconsider the case of the applicant for giving a transfer to Thiruvananthapuram Division at the earliest. However the order in favour of the applicant shall be passed within 45 days from the date of receipt of a copy of this order. No order as to costs.


(K.GEORGE JOSEPH)
MEMBER(A)


(JUSTICE K.THANKAPPAN)
MEMBER(J)

/njj/