

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A. NO. 317/2010

Dated this the 26<sup>th</sup> day of November, 2010

C O R A M

**HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER**

1 Bhoopesh V.M.  
Assistant Loco Pilot (Diesal)  
Chief Crew Controller  
Southern Railway, Palakkad

2 Manojan K.  
Assistant Loco Pilot (Diesal)  
Chief Crew Controller  
Southern Railway, Palakkad

Applicants

By Advocate Mr. M.V. Bose

Vs

1 Union of India represented by  
the General Manager, Southern Railway  
Headquarters office, Park Town PO  
Chennai-3

2 The Divisional Railway Manager  
Southern Railway, Palghat Division  
Palghat

3 The Divisional Railway Manager  
Southern Railway, Salem Division  
Salem

4 The Senior Divisional Personnel Officers  
Southern Railway, Palghat Division  
Palghat.

5 The Senior Divisional Mechanical Engineer  
Southern Railway, Palghat Division  
Palghat.

Respondents

By Advocate Mr. Thomas Mathew Nellimootttil

The Application having been heard on 19.11.2010, the Tribunal delivered the following

ORDER

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicants are directly recruited Assistant Loco Pilot (Diesal) selected for Palakkad Division (A-1). They underwent training in Palakkad Division w.e.f. 30.6.2008 (A-3). After training, they were utilised w.e.f. 6.2.2009 and 18.2.2009 respectively(A-4 & A-5). The grievance of the applicants is that instead of absorbing them in Palghat division, certain Assistant Loco Pilots who are presently working in the Salem Division, having lien in the Palakkad division and certain others who have registered their names for interdivisional transfer to Palaghat Division, are being transferred and appointed. Aggrieved, they have filed this O.A for a declaration that they are entitled for absorption in Palakkad division and to direct the respondents not to relieve them.

2 The respondents in their reply statement submitted that the applicants who were recruited through RRB, after initial training are temporarily utilised in Palghat Division. They have accepted the conditions specified in the offer of appointment dated 29.4.2008 wherein it is specified that they are liable, in the exigencies of service ,to be transferred any where in the Southern Railway(Annexure R-1). They were initially appointed as Trainee Assistant Loco Pilot on stipend and directed to undergo initial training from 30.6.2008 duly specifying that on successful completion of training they are likely to be absorbed in Salem/Palghat Division (A-2). They submitted that at the time of bifurcation a decision was taken to transfer the employees who have registered for transfer to the depots which now form part of present Palghat Division in a phased manner and maintained their lien at Palghat

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Division. The Railway Board issued guidelines for the distribution of Group -C and D staff over the territorial jurisdiction of proposed new zones/divisions and clarified that the General Managers have full powers to do so (Annexure R3). If an employee joins at Salem Division only then another employee who opted to continue in Palghat division can be relieved. They further submitted that a series of Original Applications have already been filed before the Tribunal and the Tribunal gave directions to transfer them to Palghat Division in a phased manner without disturbing their inter se seniority even prior to those who have registered for inter divisional transfer. They submitted that the lien of the applicants are maintained in Salem Division and that only on absorption they become regular employees.

3 The applicants filed rejoinder contending that their lien be fixed at Palghat division.

4 The respondents filed additional reply statement reiterating their stand in the reply statement. They have also relied on the judgment of the Apex Court in Union of India Vs. Janarthanan Debnath (ATR 2004 SC 1632) and N. K. Singh Vs. UOI (1994(3)87 SC) to the effect that it is the prerogative of the department to make posting and transfer of its employee to different divisions private rights of public servants relates to service matter prejudice to public interest irrespective of individual interest.

6 I have heard learned counsel for the parties and gone through the records produced before us.

7 The main contentions of the applicants are that the act of the respondents to transfer them to accommodate those from other Divisions who have requested for transfer, is without authority, arbitrary, illegal, unconstitutional, unreasonable and unsustainable and that they are legally eligible and entitled for being absorbed in Palakkad Division after training in



the Division. The reply of the respondents is that the applicants have accepted the conditions specified in their offer that they are in the exigency of service liable to be transferred any where in the Southern Railway, in number of cases, the Tribunal have directed the Railways to transfer the applicants therein to Palghat Division in a phased manner and that the Railway Board had issued guidelines empowering the General Managers for distribution of Group-C and D staff over the territorial jurisdiction of proposed new zones/divisions.

8 A perusal of Annexure A-1 would show that while calling the applicants for pre-appointment formalities, it is clearly indicated that on successfull completion of initial training, they are likely to be absorbed in SA/PGT division. The applicants have accepted the same and underwent training. Therefore, they are bound by the terms of the appointment and they cannot now turn around and challenge the same.

9 The applicants who were working in Eastern Railway appeared and qualified in the examination conducted by the Railway Recruitment Board for direct recruitment of Assistant Loco Pilot (Diesal). Therefore, even though they have a right to give their choice Division, the Railways have ample power, in the administrative exigency and depending on the availability of vacancies, to post them to a different division.

10 Further, the Tribunal in various cases directed the respondents to transfer Assistant Loco Pilots of Salem Division to Palghat Division in a phased manner without disturbing their interse seniority even prior to those who have registered their names for interdivisional transfer to Palghat Division. The respondents are bound to carry out the order the Tribunal in various cases.

11 The Railway Board has empowered the Managers of the Railways with full powers for posting of staff under their jurisdiction to new zones /

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divisions. The applicants are among the 20 direct recruits to the post of ALPs selected for Palakkad Division. They received the intimation about their selection in June, 2008. It is quite possible that at the time of assessment and notification of vacancies, Palakkad Division might have been a composite Division, including the present Salem Division, in which case, they could have been posted to any place in Kerala or Tamil Nadu States of erstwhile Palakkad Division, as per the oral submission of the learned counsel for the respondents. Since the applicants never worked in Palakkad Division earlier, they were not holding lien against any lower post in Palakkad Division. This is not the case with others who approached this Tribunal earlier since they held lien in the erstwhile Palakkad Division and happened to be working under the territorial jurisdiction of the newly created Salem Division and on that basis they were treated as staff of the Salem Division and their requests registered for various places in Kerala State of Palakkad Division were cancelled. In those cases, appropriate relief of considering their requests for transfer back to Palakkad Division, according to their turn was granted. This case is not identical, as shown by the facts narrated above.

12 In this view of the matter, the O.A is devoid of any merit, it is accordingly dismissed. No costs.

Dated 26<sup>th</sup> November, 2010

  
K. NOORJEHAN  
ADMINISTRATIVE MEMBER

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