

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O.A. No. 317/89
XXX XXX

1990

DATE OF DECISION 24-7-1990

K Sivakumar _____ Applicant (s)

M/s V Ramachandran &

T Ravikumar

Advocate for the Applicant (s)

Versus

Union of India & 3 others _____ Respondent (s)

M/s MC Cherian, Saramma Cherian

and TA Rajan

Advocate for the Respondent (s) 1 to 3

M/s K Ramakumar & VR Ramachandran Nair for respondent -4

CORAM:

The Hon'ble Mr. SP Mukerji, Vice Chairman

&

The Hon'ble Mr. AV Haridasan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? Y
2. To be referred to the Reporter or not? N
3. Whether their Lordships wish to see the fair copy of the Judgement? N
4. To be circulated to all Benches of the Tribunal? N

JUDGEMENT

(Mr SP Mukerji, Vice Chairman)

In this application dated 24.4.1989, the applicant who is now working as Electrical Chargeman-A has prayed that the respondents 1 to 3 may be directed to transfer him to Ernakulam Diesel Locoshed as Electrical Chargeman-A without loss of emoluments or seniority. He has also challenged the transfer of respondent No.4 to Ernakulam.

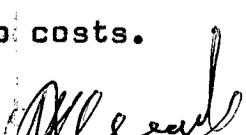
The main ground taken by the applicant is that he had got himself registered for transfer from Erode to Ernakulam even as Chargeman-B in 1982, whereas respondent No.4 got himself registered for such a transfer later in 1983. His grievance is that respondent No.4 was transferred from Erode

to Ernakulam as Chargeman-B in 1982 overlooking the applicant's prior claim. Respondent No.4 was again transferred at his request on his promotion as Chargeman-A from Krishnarajapuram to Ernakulam while the applicant, who had been promoted similarly as Chargeman-A at Ernakulam itself yet in 1987 has not been given such a transfer. Respondents 1 to 3 have rebutted the averment made by the applicant and have stated that the applicant got himself registered only on 24.11.1983. As regards the transfer of respondent No.4 to Ernakulam in 1982, it appears that in October, 1982, willingness was called for for transfer to Ernakulam and both the applicant as well as the respondent No.4 expressed their willingness to be transferred to Ernakulam as indicated at Exhibit-R1(b). While respondent No.4 was transferred to Ernakulam, the applicant was not. The applicant however, did not protest against his not being picked up for transfer to Ernakulam. Later, respondent No.4 was promoted as Chargeman-A and transferred to Krishnarajapuram in 1987 and immediately thereafter he got himself registered for transfer to Ernakulam and he was so transferred in 1989. The applicant on the other hand, was also promoted to Chargeman-A in 1987 but got himself registered for transfer in 1989. Respondent No.4 was transferred as Chargeman-A to Ernakulam on the basis of his earlier registration for such transfer.

2. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully.

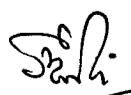
The applicant cannot at this late stage challenge the transfer of respondent No.4 to Ernakulam as Chargeman-B which was effected in October 1982. The learned counsel for the applicant conceded that the applicant did not challenge respondent No.4's transfer ^{at that time} on the presumption that the applicant also would be transferred to Ernakulam on the basis of his registration. He however, could not produce before us any document to show that the applicant had ^{got} ~~not~~ himself registered for transfer to Ernakulam in 1982 itself. In the circumstances, we feel that he cannot be allowed to reopen transfer of respondent No.4 to Ernakulam which was effected in 1982.

3. As regards his transfer to Ernakulam in the next promoted grade of Chargeman-A, since the applicant did not ask for a transfer earlier than respondent No.4, he cannot challenge the transfer of respondent No.4 to Ernakulam. However, considering that the applicant has got himself registered to Ernakulam in 1989 and as indicated by him, his wife is working at Quilon from where she cannot be transferred, while dismissing the application we hope that the respondents 1 to 3 will consider the applicant for transfer ^{him} ~~as~~ Chargeman-A to the next available vacancy at Ernakulam favourably on the basis of his registration and on the ^{valid} ~~valid~~ ground of his wife being in service at Quilon. In accordance with the Railway Board's circulars, the transfer policy admits of keeping husband and wife as near as possible. There will be no order as to costs.


(AV HARIDASAN)
JUDICIAL MEMBER

trs

24-7-1990


24.7.90.
(SP MUKERJI)
VICE CHAIRMAN