

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 319 1993  
Dy. No. 1699/93

DATE OF DECISION 18.2.93

A. J. Varghese Applicant (s)

Mr. P. Sivan Pillai Advocate for the Applicant (s)

Versus

The General Manager, Southern Railway, Madras-3 and others Respondent (s)

Smt. Sumathi Dandapani Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. N. DHARMADAN JUDICIAL MEMBER

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement? Y
2. To be referred to the Reporter or not? NO
3. Whether their Lordships wish to see the fair copy of the Judgement? NO
4. To be circulated to all Benches of the Tribunal? NO

## JUDGEMENT

MR. N. DHARMADAN JUDICIAL MEMBER

This application has been taken on mention in view of the urgency.

2. The applicant is a Gangmate who has been transferred from Kottayam to Aluva as per Annexure A-1 order on administrative reasons as stated in the order. He has challenged the transfer order on various grounds. According to the applicant, this order is illegal and against the policy statement ~~contained~~ in Annexures A-4, A-5 and A-6. He submitted that he belongs to S.T. community and he is entitled to protection of Annexures A-4 and A-5. Since he is an office bearer of the recognised association of SC & ST Railway Employees, he is entitled to the benefit of Annexure A-6 letter of the Railway Board dated 8.4.91. Immediately after receipt of the transfer order, the

association in which the applicant is a office bearer has filed Annexure A-2 representation dated 28.1.93 for retention of the applicant at Kottayam. Without considering that representation Annexure A-3 order has been passed relieving him from the duties at Kottayam w.e.f. 4.2.93. Applicant protested against the action of the respondents and approached this Tribunal by filing the present application under section 19 of the Admininitstrative Tribunals' Act with the following reliefs:

- "a) to call for the records leading to the issue of Annexure A-1/A-3 and quash the same.
- b) to issue such other orders or directions as deemed fit and necessary by this Hon'ble Tribunal in the facts and circumstances of the case."

3. At the time when the case was taken up for hearing on admission, learned counsel for respondents submitted that the applicant has already been relieved from Kottayam and hence, the application is to be rejected.

4. Having heard counsel on both sides, I am of the view that the representation submitted by the union should have been considered by the competent authority before taking a decision to relieve the applicant particularly when the office bearer of the Association and he states that applicant is a member belonging to the ST community and he is entitled to the benefits of the policy statement of the Govt. in Annexures A-4,A-5 and A-6 produced by the applicant. Hence, I am of the view that this application can be disposed of at the admission stage itself without waiting for any reply from the respondents. Accordingly, I admit the application and dispose of the same directing the third respondent to consider Annexure A-2 representation and pass orders on the same in accordance with law, within a period of one month from today. Till the disposal of Annexure A-2, if the applicant applies for leave, and if he is eligible and sufficient leave is available to his credit, the competent authority may

grant leave to him.

5. The application is disposed of with the above directions.

6. There shall be no order as to costs.

*N. Dharmadan*  
(N. DHARMADAN)  
JUDICIAL MEMBER  
18.2.93

kmm