

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.334/94

Thursday, this the 24th day of February, 1994.

C O R A M

HON'BLE MR JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

.....

Thankamma John,  
Hindi Teacher,  
Railway High School,  
Palghat.

....Applicant

By Advocate Shri KA Cherian

Vs.

1. Union of India through  
General Manager, Southern Railway,  
Madras.
2. The Chief Personnel Officer,  
Southern Railway, Madras.
3. The Divisional Personnel Officer,  
Southern Railway, Palghat.
4. Madhuras, Hindi Teacher Grade I,  
Railway Higher Secondary School,  
Perambour, Madras.
5. P Saraswathi, Hindi Teacher Grade I,  
Railway Higher Secondary School,  
Madurai.
6. Head Master, Railway High School,  
Palghat.

....Respondents

By Advocate Shri K Karthikeya Panicker, ACGSC.

O R D E R

CHETTUR SANKARAN NAIR (J), VICE CHARMAN.

Applicant seeks appropriate directions:

"....to create a post of Grade II Hindi Teacher  
in the High School, Palghat from 27.6.1980..."

Other reliefs are also sought.

2. Applicant came to this Tribunal earlier with a similar grievance. By Annexure A7 order, this Tribunal directed the Chief Personnel Officer to consider her grievances and pass appropriate order. Pursuant to that, Annexure A8 order was passed rejecting

contd.

the prayer for creating a post of Grade II Hindi Teacher. Shri K Karthikeya Panicker, Additional Standing Counsel submits that it will not be appropriate to issue a direction to create a post. Creation of a post, according to him is a matter of policy, appropriately left to the Government. He invited our attention to the judgement of the Supreme Court in Civil Appeal No.233/91 and 480/89. The Apex Court noticed that the Central Administrative Tribunal had directed the Central Government 'to take up an assessment of the needs of the School to carry on its activities at the present level and to create a sufficient number of posts to be filled up on a regular basis'.

The Supreme Court observed:


"It is a policy matter involving financial burden. No Court or the Tribunal could compel the Government to change its policy involving expenditure. The Tribunal, therefore, could not have, issued the directions as it did to compel the Central Government to assess the needs of the school and create the necessary posts...."

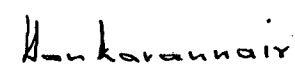
3. It may be that even in matters of policy, judicial review lies, if there is arbitrariness, or malafide in the exercise, or if there is a breach of a statutory provision. In a matter of policy simpliciter, it is not for the Court or Tribunal to issue directions or substitute its view, in place of the views of the competent authority.

4. Applicant submitted further that she should have been placed above Respondents 4 & 5. We find that Respondents 4 & 5 were appointed in Grade I on 12.9.1988 and 5.10.1988, in that order. At this distance of time, we do not think we will be justified in changing the shape of things that has been settled for years.

5. Applicant cannot get any relief at the hands of this Tribunal for the reasons aforesaid. We dismiss the application. If any remedy is available at the departmental level, the dismissal of the application will not preclude the applicant from seeking such relief. No costs.

Dated the 24th February, 1994.

  
PV VENKATAKRISHNAN  
ADMINISTRATIVE MEMBER

  
CHETTUR SANKARAN NAIR (J)  
VICE CHAIRMAN