

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 356 of 1992

DATE OF DECISION 20-10-1992

Mr TN Karthikeyan Applicant (s)

Mr P Sivan Pillai Advocate for the Applicant (s)

Versus

Senior Divisional Engineer, Respondent (s)
Southern Railway, Trivandrum & 3 others

Mrs Sumathi Dandapani Advocate for the Respondent (s) 1-3

Mr Majnu Komath - - 4

CORAM : The Hon'ble Mr. AV HARIDASAN, JUDICIAL MEMBER

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

JUDGEMENT

The grievance of the applicant, a Gate Keeper, LC at KM 35/2-3, Planthadam under the second respondent is that without rhyme or reason, the second respondent has within a period of 15 days of his joining duty at the present post, transferred him to Alleppey by order dated 25.2.1992 at Annexure-A1 just for accommodating the 4th respondent who is only a Casual Mazdoor and whose qualification according to the applicant is only that he is an active member of one of the labour union in the Railways. It is averred in the application that to be posted as a Gate Keeper, a Gangman has to be fit in Medical Classification A-3 under the Paragraph 912(i) of the Indian Railway Permanent Way Manual that he

was while working as Gangman on his request being qualified under Medical Category A-3, appointed as a Gate Keeper on 12.2.1992 and that the posting of the 4th respondent/is not even a regular Gangman and who has not been certified to be fit in Medical Classification A-3 is an arbitrary act done only to appease the union to which he belongs. The applicant therefore prays that the impugned order at Annexure-A1 may be quashed and that the respondents may be directed to retain the applicant as Gate Keeper at LC KM 35/2-3 ERS-ALLP.

2. Pursuant to an interim order issued on 6.3.1992, the applicant has been provisionally retained at LC KM 35/2-3 between Ernakulam and Alleppey.

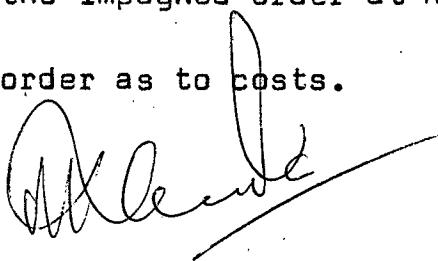
3. The 4th respondent is represented by Shri Majnu Komath. But no reply statement has been filed on his behalf. The respondents 1-3 contend that transfer being a routine administrative matter, it is the prerogative of the administration to deploy his staff in places where they deemed the services of such staff are best suited and that judicial intervention in such matters maynot be justified. Regarding the posting of the 4th respondent, a Casual Mazdoor as the Gate Keeper, it has been contended that there is no prohibition anywhere in the rules against doing so and that if the incumbent is conversant in the relevant paragraphs of the general rules of 1976 even a Casual Mazdoor can be posted as a Gate Keeper. It has also been stated that subsequently the 4th respondent has been screened and empanelled as a Gangman. The respondents therefore contend that the application being devoid of merit, the

same may be dismissed.

4. It is true that transfer of official is a routine administrative matter and that intervention by judicial forum in such matters should be minimized and only in circumstances where such intervention is required by reason of patent arbitrariness or manifest malafides. If a transfer of an official is found to be more congenial, in the interest of service just for the reason that there has been an infraction of a guideline or a practice, the Court or Tribunal will not intervene. But if from the facts placed before the Court, it is found that there is absolutely no justification for the act done, arbitrariness has to be inferred. The Railway Administration has no case that the interest of service would be better served if the 4th respondent who is only a Casual Mazdoor and who has not been examined to ascertain whether he would be fit in Medical Classification A-3 is posted as a Gate Keeper in the place of the applicant. The administration has also no case that the service of the applicant at the post where he is now sought to be shifted is essential or would be more advisable. In these circumstances, I am at a loss to understand why the administration transferred the applicant from the post within a period of 15 days/and accommodated the 4th respondent whose eligibility to be posted as a Gate Keeper has not been ascertained. Viewed in these prospective, the contention of the applicant that the only qualification that the 4th respondent has is that he is an active worker of one of the powerful trade Unions, cannot be brushed aside as /fetched. However, without dwelling much on this aspect, suffice to say that the impugned order at Annexure-A1 transferring the applicant who has been posted as a gate

Keeper only on 12.2.1992 on his being found fit in medical Classification A3 for no other reason than for posting the 4th respondent whose fitness under Medical Classification A3 was yet to be ascertained there has to be in the most modest terms called arbitrary.

5. In the result, the impugned order at Annexure-A1 is quashed. There is no order as to costs.



(AV HARIDASAN)
JUDICIAL MEMBER
20-10-1992

trs