

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 363 of 2003

Tuesday, this the 13th day of May, 2003

CORAM

HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER
HON'BLE MR. K.V. SACHIDANANDAN, JUDICIAL MEMBER

1. A.S. Sajeev,
Diesel Assistant,
Crew Controller's Office,
Southern Railway, Ernakulam South.
2. T.C. Sundaram,
Diesel Assistant,
Crew Controller's Office,
Southern Railway, Ernakulam Marshalling Yard.
3. T.K. Millet,
Diesel Assistant,
Crew Controller's Office,
Southern Railway, Ernakulam Marshalling Yard.
4. C.V. Guptan,
Diesel Assistant,
Crew Controller's Office,
Southern Railway, Ernakulam Marshalling Yard.
5. B. Nandakumar,
Diesel Assistant,
Crew Controller's Office,
Southern Railway, Ernakulam South.
6. G. Suresh Babu,
Diesel Assistant,
Area Supervisor's Office,
Southern Railway, Kollam.
7. E. Santhosh,
Diesel Assistant,
Crew Controller's Office,
Southern Railway, Ernakulam South.
8. E.R. Joshy,
Diesel Assistant,
Crew Controller's Office,
Southern Railway, Ernakulam South.
9. P.R. Raji,
Diesel Assistant,
Crew Controller's Office,
Southern Railway, Ernakulam Marshalling Yard.
10. Saji K. Paul,
Diesel Assistant,
Crew Controller's Office,
Southern Railway, Ernakulam Marshalling Yard.
11. K.K. Prakash,
Diesel Assistant,
Crew Controller's Office,
Southern Railway, Ernakulam South.

12. K.P. Purushothaman,
Diesel Assistant,
Crew Controller's Office,
Southern Railway,
Ernakulam Marshalling Yard.Applicants

[By Advocate Mr. T.A. Rajan]

Versus

1. Union of India represented by the
General Manager, Southern Railway,
Chennai.
2. The Senior Divisional Personnel Officer,
Southern Railway,
Thiruvananthapuram.Respondents

[By Advocate Mr. Sunil Jose]

The application having been heard on 13-5-2003, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

Applicants, 12 in number, were Diesel Assistants in Palghat Division of Southern Railway. On the basis of an inter-divisional transfer order as per Annexure A2 dated 27-10-1998, all of them were transferred to Trivandrum Division as Diesel Assistants. Applicants' case is that although they were ordered to be transferred from Palghat Division to Trivandrum Division, they were not immediately relieved due to some administrative reasons. Thus, inspite of the fact that they were ready to join at Trivandrum Division, they did not get the chance to readily join in the new station. Meanwhile, quite a few other similarly placed Diesel Assistants of Chennai Division, who were also transferred under the inter-divisional transfer order as per Annexure A4 dated 9-2-1999, i.e. much after the transfer order of the applicants, were relieved immediately thereby enabling them to join in Trivandrum Division earlier than the applicants. Apart from this, a few of the Diesel Assistants, who are recruited directly after Annexure A2 order, also joined at Trivandrum Division earlier than the applicants. When the provisional seniority list of Diesel Assistants as on 1-10-2001 as per Annexure A1 dated

9-11-2001 was drawn, however, the applicants found that their seniority position was much below the Diesel Assistants who were transferred as per Annexure A4 and the other Diesel Assistants who were recruited directly after passing of Annexure A2 order. The gist of the applicants' grievance is that there was no failure on their part to join at Trivandrum Division in pursuance of Annexure A2 order and that it was only because of the delay on the part of the respondents that they were retained in Palghat Division delaying the process of their joining at Trivandrum and availing the consequential benefits like seniority. Raising objections against Annexure A1 seniority list, the 4th applicant, Shri C.V.Guptan, has made Annexure A5 representation dated 3-12-2001. It is averred that similar representations were made by other applicants also. But these representations have not been responded to. Applicants seek the following reliefs:-

- "i) call for the records leading to Annexure A-1 seniority list and set aside the same to the extent the seniority assigned to the applicants in it;
- ii) to declare that the seniority assigned to Sl.Nos. 133 to 163 in Annexure A-1 seniority list over the applicants as illegal;
- iii) in alternative direct the 2nd respondent to consider Annexure A-5 representation of the 4th applicant and similar representations of the other applicants without further delay;
- iv) grant such other further reliefs as this Hon'ble Tribunal may deem just, fit and proper in the facts and circumstances of the case; AND
- v) award costs and incidental to this application."

2. When the matter came up for consideration for admission, Shri Sunil Jose, learned counsel for the Railways, sought time to get the facts verified and to obtain necessary instructions in the matter. However, Shri T.A.Rajan, learned counsel for the applicants, pointed out that the applicants would be satisfied if the representation preferred by the 4th

9.

applicant and similar representations of the other applicants are considered by the respondents and appropriate reply is made available to the applicants within a specific time frame. In other words, learned counsel for applicants says that if the 3rd prayer in the OA is granted, the purpose of this OA would be served. Shri Sunil Jose, learned counsel for respondents, on his part states that the respondents would have no objection to consider the applicants' representations within a time frame and make an appropriate reply available to the applicants and that the OA can be disposed of accordingly.

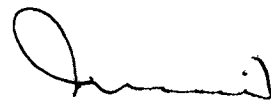
3. On the basis of the submissions made by the learned counsel on either side, we proceed to dispose of the Original Application by directing the 2nd respondent to consider Annexure A5 and similar representations of the applicants and pass a speaking order thereon and serve a copy thereof on each of the applicants as expeditiously as possible and in any case within two months from the date of receipt of a copy of this order.

4. The Original Application stands disposed of as above. No order as to costs.

Tuesday, this the 13th day of May, 2003



K.V. SACHIDANANDAN
JUDICIAL MEMBER



T.N.T. NAYAR
ADMINISTRATIVE MEMBER

Ak.