

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 373 199 3

DATE OF DECISION 22.3.93

C. Sasikumar Applicant(s)

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

Versus  
The Asst. Engineer, Southern Railway, Nagercoil and others Respondent(s)

Mr. P. A. Mohammed, Advocate for the Respondent(s)

## CORAM :

The Hon'ble Mr. N. DHARMADAN JUDICIAL MEMBER

The Hon'ble Mr. R. RANGARAJAN ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement ?
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

MR. N. DHARMADAN JUDICIAL MEMBER

When the application came up for further direction, we have heard both sides and decided to dispose of the application itself finally.

2. The applicant who is a Senior Gate Keeper at the Engineering Level Crossing at KM 8/12-13 near Nagercoil Railway Station, is aggrieved by Annexure A-4 order dated 23.2.93 by which he has been transferred and posted as Sr. Gatekeeper LC at K.M. 344/0-1 in the same section under the first respondent.

3. According to the applicant he is a senior Gatekeeper and he is the Assistant General Secretary of the Dakshin Railway Employees Union which is an unrecognised union of the Railways. He has taken a number of proceedings against the

Railways for redressal of grievances of the employees in the capacity as Asst. General Secretary of the union. There is also a CBI enquiry pending against the respondents on the basis of the decision of the Tribunal in O.A. 767/91 which was a case filed by the railway employees including the applicant. According to the learned counsel for applicants the transfer has been issued only on account of extraneous consideration and to victimise and harass him by putting him in a distant place having no road facility.

4. This Tribunal after admitting the application on 1.3.93 stayed the transfer and directed the respondents to file a statement. Accordingly, learned counsel for respondents filed a statement denying the allegation of malafide and they have also stated that the Gate in which the applicant was formerly working in Nagercoil and the Gate to which the applicant was presently transferred by the impugned order are within the jurisdiction of the first respondent and he has the power to transfer the applicant. They have also denied the allegation of the applicant that the applicant was transferred to a remote place without direct access either by road or train. The gate to which he was transferred is very close to the National Highway through which a number of buses are operating. The nearest Railway Station is about 50 feet away from the Gate.

5. Learned counsel for the applicant contended that this transfer is illegal and amounts to victimisation for trade union activities and an unfair labour practice.

6. After hearing learned counsel for both parties and perusing the records, we are satisfied that the transfer has been made in the exigency of service. The learned counsel for the applicant contended that the post of the Gatekeeper is a group-D post and cannot be transferred.

But he was unable to produce any material in support of his argument. This transfer has been issued in the exigency of service on account of the retirement of the incumbent.

7. In the light of the facts and circumstances and on the basis of the materials available in this case, we do not see any illegality in the transfer and the application deserves to be dismissed. Accordingly we do so.

8. There will be no order as to costs.

*M R* *MD*

(R. RANGARAJAN)  
ADMINISTRATIVE MEMBER

*N. Dharmadhan* *22.3.93*

(N. DHARMADHAN)  
JUDICIAL MEMBER

22.3.93

kmm