

CENTRAL ADMINISTRATIVE TRIBUNAL ERNAKULAM BENCH

ORIGINAL APPLICATION NO. 401 OF 2008

Dated the 13th January 2009

CORAM:-

HON'BLE MR. JUSTICE M. RAMACHANDRAN, VICE CHAIRMAN

1. G.P. Pradeep,
S/o AP Govind Pisharoty,
Residing at 'Sreyas' HV Nagar,
Puduppariyaram, PO, Palakkad.
Assistant Loco Pilot, Diesel
Chief Crew Controller,
Southern Railway, Erode.
2. John K George, S/o KV George,
Residing at Kochupurakkal House,
Changampuzhya Cross Road,
Edappally PO, Kochi-24.
Assistant Loco Pilot, Diesel
Chief Crew Controller,
Southern Railway, Erode.
3. KR Prasad, S/o KP Rajan,
Residing at Korattikattil House,
Kizhuthani, Tanissery, PO Trichur District.
Assistant Loco Pilot, Diesel
Chief Crew Controller,
Southern Railway, Erode.
4. PS Biju, S/o PK Sadanandan,
Residing at Puthenvelyil House,
Kannankara, Cherthala, Alappuzhya Dist.
Assistant Loco Pilot, Diesel
Chief Crew Controller,
Southern Railway, Erode.
5. Sunil Kumar S, S/o Surendran. M,
Residing Nainakonathu Veedu,
Punnacadu, Perumpazhuthoor, PO
Thiruvananthapuram-695 126.
Assistant Loco Pilot, Diesel

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- Chief Crew Controller,
Southern Railway, Erode.
6. Anu Poulouse, S/o VT Poulouse,
Residing at Ayyappath Vinayakam,
Veetampara, Varode, PO
Ottappalam, Palakkad-679 102.
Assistant Loco Pilot, Diesel
Chief Crew Controller,
Southern Railway, Erode.
7. A Dinesh Kumar, S/o TM Pankajakhan,
Residing at Ayyappath Vinayakam,
Veetampara, Varode PO,
Ottappalam, Palakkad-679 102.
Assistant Loco Pilot, Diesel
Chief Crew Controller,
Southern Railway, Erode.
8. S.Prasam, S/o PG Sadasivan,
Residing at Pattathil Veedu, Thazham,
Chathanoor PO, Kollam District.
9. Sudesh Kumar Anandan, S/p K Anandan,
Residing at 8/1431, "Sudha Nivas"
TD East Road, Kochi-682 002.
Assistant Loco Pilot, Diesel
Chief Crew Controller,
Southern Railway, Erode.
10. James P Samuel, S/o Samuel,
Residing at Padinjarepurackal,
Pandiayammavu, Melukavumattom, PO
Kottayam-668 652,
Assistant Loco Pilot, Diesel
Chief Crew Controller,
Southern Railway, Erode.
11. D.B. Bindu Kumar, S/o DK Balan,
Residing at Devaswam Paramil,
Pizhala PO, Ernakulam District.
Assistant Loco Pilot, Diesel
Chief Crew Controller,
Southern Railway, Erode.
12. Sabu KL, S/o S Levy,
Residing at Cherukuzhivila Veedu,
Anukkodu, Kollemcode, Kanyakumari Dist.
Assistant Loco Pilot, Diesel
Chief Crew Controller,
Southern Railway, Erode.

13. Aby Peter George, S/o George MP
Residing at Maliackal House, Paradise Road,
Ponnurunni, Vyttila PO, Kochi-682 019.
Assistant Loco Pilot, Diesel
Chief Crew Controller,
Southern Railway, Erode.
14. A Unnikrishnan, S/o KC Achutha Warier,
Residing at Kanjirakkattu Variam,
Perumbaikandu, PO Kottayam-28.
Assistant Loco Pilot, Diesel
Chief Crew Controller,
Southern Railway, Erode.
15. Roopesh Raju, S/o KM Raju,
Residing at Ambalayam House,
Poothakuzhy PO, Pampady, Kottayam.
Assistant Loco Pilot, Diesel
Chief Crew Controller,
Southern Railway, Erode.
16. Anish Kumar B. S/o Babu,
Residing at Plavila Puthen Veedu,
Kudayal PO, Vellarada (Via),
Trivandrum-695 505.
Assistant Loco Pilot, Diesel
Chief Crew Controller,
Southern Railway, Erode.
17. Nissamudeen TV, S/o Vakkutty, TM
Residing at Thekkumuri House,
Pudanur PO, Mundur, Palakkad,
Assistant Loco Pilot, Diesel
Chief Crew Controller,
Southern Railway, Erode.

[By Advocate: Mr T. C. Govindaswamy]

..... Applicants

-Versus-

1. Union of India,
Represented by the General Manager,
Southern Railway, Headquarters Office,
Park own PO, Chennai-3.
2. The Divisional Railway Manager,
Southern Railway, Palghat Division, Palghat.
3. The Divisional Railway Manager,
Southern Railway, Salem Division, Salem.
4. The Senior Divisional Personnel Officer,
Southern Railway, Palghat Division, Palghat.

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5. The Senior Divisional Mechanical Engineer,
Southern Railway, Palghat Division, Palghat.

...Respondents

[By Advocates: Mr Thomas Mathew, Nellimoottil]

This application having been heard on 13th January, 2009 the Tribunal delivered the following -

ORDER

The applicants are at present working as Assistant Loco Pilots (ALC) at the Erode Railway Station. Till commencement of the new Salem Division on 1.11.2007, Erode Railway Station was within the territorial jurisdictional area of the Palghat Division. Now it is under the Salem Division. The new Division was carved out by including the areas under Palghat, Madurai and Tiruchirappalli Divisions.

[2] The case of the applicants' is that even before such formation of the Salem Division, they had submitted the request for registration for transfer to the stations in the Palghat Divisional area in the prescribed format. However, in spite of vacancies, which were available, after formation of the new Division, the applicants are continued to be under Salem Division. It is submitted that in the normal course, the applicants ought to have been transferred against the existing and future vacancies falling within the territorial jurisdiction of Palghat Division, however, about twenty five candidates, recommended by the Railway Recruitment Board, are being allotted to Palghat Division against the existing vacancies. These candidates are now undergoing training and ultimately they would be posted as

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Assistant Loco Pilots at Palghat Division. In the event of posting the new recruits, the chances of the applicants for getting the appropriate posting/ transfer will be jeopardised. The present application is filed in the above context, for an expeditious disposal of the claim and relating reliefs.

[3] It is pleaded that in fact it is not strictly a case of intra-divisional transfer, although in the requests made by the applicants it is stated as above. Principally it is a case of exercise of option or willingness to continue in the present Division. In fact their case is to retain them in the Palghat Division.

[4] On behalf of the respondents, however, it is submitted in the counter statement that all the applicants alongwith others, have registered for the inter-divisional transfer to Palghat Division after the bifurcation of Palghat Division and in view of the limited vacancies all of them could not be simultaneously accommodated. As a matter of fact, the new recruits, who are under going training are likely to be accommodated under Salem Division although the proposal was to fill up the vacancies notified by the former Palghat Division. It is further stated that transfer from Palghat to Salem and vice-versa may be issued on 1:1 basis so that the number of pending requests will come down. But it is reiterated that the application is premature and the requests for transfer of the applicants will be considered on their turn to protect the interest on the basis of date of registration for inter Divisional Transfer.

[5] Counsel appearing for the parties invited my attention to the order dated 03.9.2008 passed by a Single Bench of this Tribunal in



OA No. 235/2008. I may extract para 8 of the order, which has now attained finality, although it is submitted that the final administrative order is yet to be passed.

"8. As such, this OA is disposed of with the direction that the applicants herein shall be afforded the same treatment as the applicants in OA No.754/2007 in respect of their transfer request. If any individual had in the recent past had been appointed as Assistant Loco Pilot (Diesel/Electrical) under direct recruitment on or after 5th May, 2008 (the date of filing of this OA) and if his seniority would be affected by transfer and fixation of seniority of the applicants herein, he shall be put to notice alongwith the fact that at the time of initial admission, the Tribunal has given an interim order, "seniority of the Assistant Loco Pilots (Diesel/Electrical) being recruited in the Palghat Divisional Area of Southern Railway shall be subject to the outcome of this O.A."

[6] The sum and substance of the submission of the applicants is that in a similar case of transfer, as stated above, the administration was obliged to take due notice of the position arising out of bifurcation. It is also highlighted that the candidates selected by the Railway Recruitment Board is likely to be accommodated in the Salem Division, as would be gatherable from the submissions made in para 6 of the reply statement. The reply statement discloses that on the above basis, 60 vacancies may be available in running cadre and 43 candidates have been selected for the post of Assistant Loco Pilot and a decision is yet to be taken in respect of their posting; and that the applicants would be considered on the merit, seniority, availability of posts etc.

[7] In the context I may not be justified in giving a positive direction, since the administration has already taken note of the claim of the applicants and it has to be assumed that an equitable

arrangement would result. From the submissions of the respondents it is clear that there could be posts to accommodate the applicants. It would be in the interest of all parties including Administration that the matter is quickly and fairly settled so that applicants may be able to get accommodation as per the availability of vacancies.

[8] At this stage, counsel for the respondents submitted that the applicants would be reposted as far as possible within a period of four months from today. This submission is recorded. Since I am of the view that the transfer request is really an option legally available to the applicants, irrespective of joining of direct recruits, the applicants could if at all be denied seniority ^{it should be} only after ascertaining their views, vis-à-vis, the new entrants. This right would be available to every one of the applicants, irrespective of posting dates as it could be postulated that they are likely to be repatriated only in a phased manner. Therefore, this issue is left open, and the possible fears of the applicants could thereby be redressed.

[9] With the above directions and observations the OA stands disposed of. No costs.


(Justice M Ramachandran)
Vice Chairman

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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.80/09
WITH
M.A.No.401/09 IN O.A.No.401/08

Friday this the 12th day of June 2009

C O R A M :

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

O.A.No.80/09

1. Anu Poullose,
S/o VT Poullose,
Residing at Vevukkat House,
Asokapuram P.O., Aluva – 683 101.
Assistant Loco Pilot,
O/o. the Chief Crew Controller,
Southern Railway, Erode.
2. S.Prasam,
S/o PG Sadasivan,
Residing at Pattathil Veedu, Thazham,
Chathannoor PO, Kollam District.
Assistant Loco Pilot,
O/o. the Chief Crew Controller,
Southern Railway, Erode.
3. Sudesh Kumar Anandan,
S/o K Anandan,
Residing at 8/1431, "Sudha Nivas"
TD East Road, Kochi-682 002.
Assistant Loco Pilot,
O/o. the Chief Crew Controller,
Southern Railway, Erode.
4. D.B. Binoy Kumar,
S/o DK Balan,
Residing at Devaswam Parambil,
Pizhala PO, Ernakulam District.
Assistant Loco Pilot, Diesel
O/o. the Chief Crew Controller,
Southern Railway, Erode.

5. **Aby Peter George,**
S/o George MP
Residing at Maliackal House, Paradise Road,
Ponnuranni, Vyttila PO, Kochi-682 019.
Assistant Loco Pilot,
O/o. the Chief Crew Controller,
Southern Railway, Erode.
6. **KR Prasad,**
S/o KP Rajan,
Residing at Korattikattil House,
Kizhuthani, Thanissery PO, Trichur District.
Assistant Loco Pilot,
O/o. the Chief Crew Controller,
Southern Railway, Erode.
7. **Sunil Kumar S,**
S/o Surendran. M,
Residing Nainakonathu Veedu,
Punnacadu, Perumpazhuthoor, PO
Thiruvananthapuram-695 126.
Assistant Loco Pilot,
O/o. the Chief Crew Controller,
Southern Railway, Erode.
8. **A Dinesh Kumar,**
S/o TM Pankajakshan,
Residing at Ayyappath Vinayakam,
Veetampara, Varode PO,
Ottappalam, Palakkad-679 102.
Assistant Loco Pilot,
O/o. the Chief Crew Controller,
Southern Railway, Erode.

...Applicants

(By Advocate Mr.T.C.Govindaswamy)

Versus

1. **Union of India represented by the General Manager,**
Southern Railway, Headquarters Office,
Park Town PO, Chennai-3.
2. **The Divisional Railway Manager,**
Southern Railway, Palghat Division, Palghat.
3. **The Divisional Railway Manager,**
Southern Railway, Salem Division, Salem.

4. The Divisional Railway Manager/Mechanical,
Southern Railway, Palghat Division, Palghat.

...Respondents

(By Advocate Mr. Thomas Mathew Nellimoottil)

M.A.No.401/09 IN O.A.No.401/08

1. Union of India represented by the General Manager,
Southern Railway, Headquarters Office,
Park own PO, Chennai-3.
2. The Divisional Railway Manager,
Southern Railway, Palghat Division, Palghat.
3. The Divisional Railway Manager,
Southern Railway, Salem Division, Salem.
4. The Divisional Personnel Officer,
Southern Railway, Palghat Division, Palghat.
5. The Senior Divisional Mechanical Engineer,
Southern Railway, Palghat Division, Palghat.

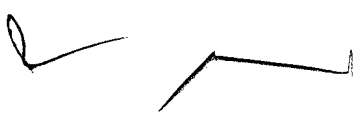
...Misc Applicants

(By Advocate Mr. Thomas Mathew Nellimoottil)

Versus

1. G.P.Pradeep,
S/o AP Govind Pisharoty,
Residing at 'Sreyas' HV Nagar,
Puduppariyaram PO, Palakkad.
2. John K George,
S/o KV George,
Residing at Kochupurakkal House,
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3. KR Prasad,
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Residing at Korattikattil House,
Kizhuthani, Tanissery PO, Trichur District.
4. PS Biju,
S/o PK Sadanandan,
Residing at Puthenvelyil House,
Kannankara, Cherthala, Alappuzha Dist.

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5. Sunil Kumar S,
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 6. Anu Poullose,
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Residing at Vevukkat House,
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Kottayam-668 652,
 11. D.B. Binoy Kumar,
S/o DK Balan,
Residing at Devaswam Parambil,
Pizhala PO, Ernakulam District.
 12. Sabu KL,
S/o S Levy,
Residing at Cherukuzhivila Veedu,
Anukkodu, Kollemcode, Kanyakumari Dist.
 13. Aby Peter George,
S/o George MP
Residing at Mallackal House, Paradise Road,
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14. A Unnikrishnan,
S/o KC Achutha Warier,
Residing at Kanjirakkattu Variam,
Perumbaikandu PO, Kottayam-28.
 15. Roopesh Raju,
S/o KM Raju,
Residing at Ambalayam House,
Poothakuzhy Post, Pampady, Kottayam.
 16. Anish Kumar B.
S/o Babu,
Residing at Plavila Puthen Veedu,
Kudayal Post, Vellarada (Via),
Trivandrum-695 505.
 17. Nissamudeen TV,
S/o Vakkutty TM,
Residing at Thekkumuri House,
Pudanur PO, Mundur, Palakkad.
- ...Respondents

(By Advocate Mr T. C. Govindaswamy)

This application having been heard on 12th June 2009 the Tribunal on the same day delivered the following :-

ORDER

HON'BLE Mr. GEORGE PARACKEN, JUDICIAL MEMBER

The issue involved in both this O.A.No.80/09 and M.A.No.401/09 in O.A.No.401/08 is same. In fact, the applicants in O.A.No.80/09 are some of the applicants in O.A.No.401/08. O.A.No.401/08 was already disposed of vide order dated 13.1.2009. The operative part of the order is as under :-

"6. The sum and substance of the submission of the applicants is that in a similar case of transfer, as stated above, the administration was obliged to take due notice of the position arising out of bifurcation. It is also highlighted that the candidates selected by the Railway Recruitment Board is likely to be accommodated in the Salem Division, as would be gatherable from the submissions made in para 6 of the reply statement. The reply statement discloses that on the above basis, 60 vacancies may be available in running cadre and 43

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candidates have been selected for the post of Assistant Loco Pilot and a decision is yet to be taken in respect of their posting; and that the applicants would be considered on the merit, seniority, availability of posts etc.

7. In the context I may not be justified in giving a positive direction, since the administration has already taken note of the claim of the applicants and it has to be assumed that an equitable arrangement would result. From the submissions of the respondents it is clear that there could be posts to accommodate the applicants. It would be in the interest of all parties including Administration that the matter is quickly and fairly settled so that applicants may be able to get accommodation as per the availability of vacancies.

8. At this stage, counsel for the respondents submitted that the applicants would be reposted as far as possible within a period of four months from today. This submission is recorded. Since I am of the view that the transfer request is really an option legally available to the applicants, irrespective of joining of direct recruits, the applicants could if at all be denied seniority it should be only after ascertaining their views, vis-à-vis, the new entrants. This right would be available to every one of the applicants, irrespective of posting dates as it could be postulated that they are likely to be repatriated only in a phased manner. Therefore, this issue is left open, and the possible fears of the applicants could thereby be redressed.

9. With the above directions and observations the OA stands disposed of. No costs."

2. Thereafter, the respondents have issued the Annexure A-6 order dated 6.2.2009 in O.A.No.80/09. By the said order, 14 newly recruited Assistant Loco Pilots whose lien was maintained in Salem Division were posted in different stations under the Palghat Division. The applicants' contention is that the respondents were required to post them first against the vacancies of Assistant Loco Pilots falling within the territorial jurisdiction of Palghat Division in preference to the direct recruits in accordance with the observations of this Tribunal made in the aforesaid order dated 13.1.2009 in O.A.No.401/08.

3. During the pendency of O.A.No.80/09 the respondents moved M.A.No.401/09 in O.A.No.401/08 stating that while implementing the aforesaid order of this Tribunal dated 13.1.2009, they have confronted with some practical difficulties due to the sudden bifurcation of the Palghat Division. They further stated that at present there are 12 vacancies in Loco Pilot category in Palghat Division and 61 vacancies in Salem Division. In order to fill up those vacancies, 40 Assistant Loco Pilots have already been recruited and send for training and they are expected to complete their training in the month of July, 2009, provided all of them pass in one attempt, otherwise it may extend up to September, 2009. They have, therefore, submitted that six months further time is required for them to comply with the directions of this Tribunal in the aforesaid order dated 13.1.2009.

4. In my considered view, the reasons stated by the respondents railways is quite genuine. The bifurcation of the Palghat Division and creation of a new Salem Division would have definitely caused unforeseen administrative inconvenience to the Railways. Therefore, to cope up with the day to day administration, posting of the Assistant Loco Pilots now working in the Salem Division to the Palghat Division may take some more time. I, therefore, find their request for extension of time for implementing the order of this Tribunal dated 13.1.2009 as quite justifiable.

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5. In the above facts and circumstances of the case, M.A.No.401/09 in O.A.No.401/08 is allowed. The respondents shall endeavour to implement the aforesaid order of this Tribunal dated 13.1.2009 by 30.11.2009. It is hoped that they will not ask for any further extension of time in the matter.

6. As regards O.A.No.80/09 is concerned, as already noted, the applicants therein are the applicants in O.A.No.401/08. Once the respondents have assured that the order in O.A.No.401/08 dated 13.1.2009 will be implemented by 30.11.2009 as aforementioned, the grievance of the applicants will get redressed automatically. Therefore, no further directions are required to be issued to the respondents. Accordingly, this O.A is disposed of. There shall be no order as to costs.

(Dated this the 12th day of June 2009)

GEORGE PARACKEN
JUDICIAL MEMBER

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