

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.407/2007

Tuesday this the 30 th day of October, 2007.

CORAM:

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

U.D.John,
S/o U.L.Devassy,
Senior Divisional Cashier (Pay),
Southern Railway, Palghat,
Residing at Ukken House,
Arimpur P.O., Trichur District. Applicant

(By Advocate Shri T.C.Govindaswamy)

Vs.

1. Union of India, represented by
the General Manager, Southern Railway,
Headquarters Office, Park Town P.O.,
CHENNAI-3.
2. The Financial Advisor and Chief Accounts Officer,
Southern Railway,
Headquarters Office, Park Town P.O.,
CHENNAI-3.
3. The Senior Divisional Finance Manager,
Southern Railway, Divisional Officer,
Palghat division, PALGHAT-2.
4. Shri V.P.Joseph,
Senior Divisional Cashier (Pay)
Southern Railway,
Trivandrum Division,
TRIVANDRUM -14. Respondents

By Advocate Shri Thomas Mathew Nellimoottil)

The application having been heard on 30.10.2007,
the Tribunal on the same day delivered the following:

ORDER

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

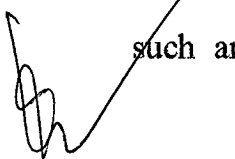
The applicant who is functioning as Sr. Divisional Cashier has approached
this Tribunal challenging the legality of A-1 transfer order whereby he stood

transferred from Palghat to Trivandrum against whom, one Shri V.P. Joseph, Sr. Divisional Cashier (R-4) has been posted. By order dated 25.6.07 this Tribunal stayed the impugned order.

2. The respondents have filed a reply. According to them, the applicant had been transferred on administrative grounds by an authority competent to do so. (Para 2 of their reply refers). Nowhere in the reply, what the administrative exigency was explained, except in para 5 which relates to an alleged episode that the applicant had been sealed the Cash Box of the Cashier by name N. Selvam. According to the respondents, in this action made by the applicant, the applicant had not applied his mind.

3. The applicant has filed his rejoinder explaining as to the circumstances under which he was to take action and he has supported his contention by adding A-6 and A-7 whereby he had informed the higher authorities of the action taken by him. In addition, the applicant has filed A-8 and A-9, the contents of which are such that the Railways themselves were not happy with the conduct of Shri N. Selvam. As such, according to the applicant, the transfer order is vitiated as there would be no administrative exigency in transferring the applicant.

4. Counsel for the applicant has invited my attention to para 5 and 8 of the counter and corresponding paragraphs in the rejoinder. According to the counsel, the Railways are trying to protect the interest of certain persons by virtue of their position in the Union, even in such circumstances, action was taken by them as contained in A-8 and A-9. Counsel submits that the action taken by the respondents in shifting the applicant under the powers vested with FA & CAO on such an untenable administrative ground, only demoralizes, since they are




workers in the Railways.

5. Counsel for the applicant further submitted that, since the applicant is to superannuate on 29.2.08, it will be very appropriate if the applicant is allowed to continue in the same station.

6. Counsel for the respondents submits that, the impugned transfer order has been passed by an ostensible authority and for administrative reasons. In addition, according to the respondents the tenure of Sr.Divisional Cashier is 4 years and that came to an end by August, 2007.

7 Arguments were heard and documents perused. That power is vested with the FA & CAO to transfer the Divisional Cashier, is not in dispute. However, what is to be seen is, whether that power has been judiciously invoked. The impugned order does not reflect any specific administrative exigency in the transfer of the applicant. When the applicant has in his O.A. referred to an episode relating to one Shri N. Selvam who happened to be associated closely with the Trade Union, the respondents in para 5 & 8 had narrated that the applicant's action in sealing the cash box maintained by the aforesaid N Selvam was not appropriate and in so doing, the applicant did not apply his mind. It is also stated in the counter that there has been complaints against the applicant. The respondents however, do not reflect anywhere that such complaints were gone into by the respondents by way of holding any preliminary inquiry. In other words, the Railways have taken for granted whatever has been stated against the applicant and the FA & CAO chose to shift the applicant from Palghat to Trivandrum. If A8 and A9 are taken into account the case of the applicant gets concretized that there is absolutely no administrative exigency to shift the



applicant from Palghat to Trivandrum. For, the action taken by the applicant in sealing the cash box seems to be a right action when A8 and A9 are kept in view. Again in sealing the cash box the applicant has not violated any of the rules or regulations. Rather, and his action was in conformity with the rules 410 of Manual of the Office of the Financial and Chief Accounts Officer – Cash and Pay Office. As such, impugned order is quashed and set aside, as no valid administrative reason has been available to justify the transfer. In any event, as the applicant is due for superannuation on 29. 2.2008, it is only appropriate that the applicant is to be retained in the same station.

8. Private respondent is a person who has been transferred from Trivandrum to Palghat and he has not chosen to file any counter, which means that he does not want to contest the O.A. As such, it is clear that in allowing this O.A. he is not unduly prejudiced.

9. In view of the above, the O.A. is allowed. The order dated 28.5.07(A1) is quashed and set aside. No costs.

Dated the 30th October, 2007.



Dr.KBS RAJAN
JUDICIAL MEMBER