

7

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.NO. 413 OF 2008

Tuesday, this the 14th day of October, 2008.

CORAM:

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

1. P.B.Siamlal
Station Master-III, Pasur Railway Station,
Southern Railway, Erode.
Residing at Poomalil House (Padath)
Thuruthipuram, Moothakunnam P.O
Ernakulam District
2. Ramakrishnan.V
Assistant Station Master O./o Station Master
Kodumudi, Erode.
Residing at 4/239, 'Ramakrishna'
Athikuzhy Chittur P.O
Palghat Kerala - 678 101
3. U.K. Premkumar
Station Master Gr.III,
Thottiypalayam.P.O., Vellochu, Erode.
Residing at 'Ambadi', Mattam North
Thattarambalam P.O. Mavelikkara
4. P.Ramesh
Assistant Station Master,
Virapandy Road, R.S., Ariyanoor Post, Salem.
Residing at 'Ragam', T.C.50/837(1)
Puliyarathoppu, Kalady, Karamana
Thiruvananthapuram
5. D.Dayanandan
Assistant Station Master,
Virapandy Road, R.S., Ariyanoor Post, Salem.
Residing at Anakkalichira, North Aryad
Alleppey, Kerala
6. C.V.Mathew
Station Master Gr.III,
3A, Mavell Palayam R.S, Taluk Samkari Dung.
Salem
Residing at Chiramal House
Hospital Road, Chalakudy P.O
Trichur District
7. V. Manoj.
Station Master Gr.III, Sankari Railway Station,
Sankari R.S.P.O.Salem.
Residing at Manoj Bhavan
Pullupana P.O.Kadakkal, Kollam

8. P.K. Narayana Kurup.
Station Master Gr.III,
Vanjipalayam Station, Thirupur, Tamil Nadu.
Residing at Pananthanathukuzhil
Chemakara P.O, Karukachal
9. T.P.Santhosh.
Assistant Station Master,
Vanjipalayam Railway Station, Tiruppur.
Residing at Paruthikkatt House
Pallour, Desaangalam, Thrissur
10. K.P.Abdul Kareem.
Assistant Station Master,
Cauvery Rly. Station, Erode.
Residing at K.P.House
Madakkantavilla, Puthuppanam
Vadakara, Calicut District
11. P.N. Vijaya Kumar.
Station Master III,
Vijayamangalam. R.S., Vaipads. Erode.
Residing at Cherukaramadom
Poovathur P.O. Koipuram (via)
Pathanamthitta District
12. Elyash.S
Assistant Station Master,
Ingur Rly Station, Perundurai Taluk
Erode, Tamil Nadu
Residing at 'Sukria Manzil', Ram Nagar
Vadakkanthara P.O., Palghat - 12
13. Sreeraj.S
Assistant Station Master, Buddireddipatti
Residing at C/o Senthil Kumar M.
H.No.28/42-A, Vanniyar Street
Kadathur P.O. Dharmapuri District
Tamil Nadu
14. V.K.Jlthendran.
Assistant Station Master, Karur Junction
Residing at 'Sarang', Near Sreekrishan Temple
Mambaram P.O. Tellicherry
15. Govindan Nambpoothiri.K.N
Assistant Station Master,
Vellayanai Rly Station, Vellayani.P.O., Karur.
Residing at Kochoor Illom
Muttom P.O. Harippad
Alappuzha
16. D.Saiju
Assistant Station Master, Moorthypalayam R.S
Residing at 'Parvathy', Puthenkulam P.O
Kollam - 691302



17. K.S.Kumaran
Assistant Station Master, Perundurai Rly Station, Erode.
Residing at Rishi 12/341
Chetty Street, Sulthan Pet, Palakkad
18. S.Rajasekharan Nair.
Assistant Station Master, Erode Junction
Residing at Lakshmi Vilas
P.O Manjapra, Angamaly
19. V.T.Sreenivasan.
Assistant Station Master. Erode Junction
Residing at Vellodathil Thattankandi House
Kodakkad P.O. Malappuram : Applicants

(By Advocate Mr. TCG Swamy)

v.

1. Union of India represented by General Manager,
Southern Railway, Chennai
Headquarters Office, Park Town, P.O
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
5. The Senior Divisional Operations Manager
Southern Railway, Palghat Division, Palghat : Respondents

(By Advocate Mr. Thomas Mathew Nellimoottil)

The application having been heard on 14.10.2008, the Tribunal on the same day delivered the following:

ORDER

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

The case of the applicants in this OA is as narrated hereinafter.

2. The applicants were employed in the Palghat Division of Southern Railway and had requested for a posting within the territorial jurisdiction of the present Palghat Division. Applications submitted by them have also been registered in the office of the fourth respondent. Annexure A-1 refers. After the registration of the names, the new Salem Division



was proposed to be formed vide Annexure A-2. In terms of Para 1.6.1 thereof, " the field staff presently working in the territorial jurisdiction of the proposed SA division will be deemed in have automatically been transferred to SA Division unless such of these staff opt out of SA Division and choose to go back to their parent Division, to be exercised in writing."

Pending transfer requests are to be dealt with in the following manner:

" 1.7 Pending transfer request : The transfer requests already registered are to be dealt with as under:

1.7.1: To go out of SA Division : The priority in respect of staff of the erstwhile PGT/TPJ/MDU Division will continue to be maintained at the relevant unit to which such request has been made and registered.

3. As per Para 1.8 the cadre would be kept open till 31.10.2008 or such other date as may be decided by the competent authority. Vide Annexure A-3, the date of closure of the cadre was advanced for 30.04.2008 instead of 31.10.2008. Transfer orders were proposed to be issued on 1:1 basis subject to availability of vacancies in the jurisdiction of Palghat Division according to their turn. Annexure A-3 was also modified by Annexure A-4 whereby the date of closure of cadres was changed to 15.05.2008. It was also stated that the lien of persons like the applicants who had registered for Palghat Division would be maintained in the Palghat Division of Southern Railway. However, about twenty candidates recommended by the Railway Recruitment Board have now been allotted for Palghat Division against the existing vacancies and that they have also been sent for training. These candidates are expected to complete their training shortly and are expected to be posted against regular vacancies in the Palghat Division. Even before the formation of the new Division, the applicants have submitted representations for transfer against existing vacancies in Palghat Divisional area vide Annexure A-5. Similar

representations were submitted by other applicants also. In case the existing vacancies are filled up by appointing direct recruits, the applicants would be subjected to substantial prejudice, irreparable damages, recurring monthly loss. The applicants have, therefore, sought for the following relief:-

" Direct the respondents to consider Annexure A-5 and similar applications submitted by the applicants and to transfer and post them against the existing and future vacancies of Station Masters in the Palghat Division of Southern Railway forthwith and at any case in preference to direct recruitment."

4. As there were some more cases of this nature the Divisional Personnel Officers of Salem and Palghat Divisions were requested to assist the Court amicably and arrive at a solution and they have been present. In one such case, (OA 362 of 2008) the respondents (through Divisional Personnel Officer, Salem) have filed a statement reflecting therein that a meeting having been held at higher level to solve the problem, the following is the arrangement as per the decision taken:-

1. *Indents pending with RRB/MAS for the post of ASM will be enhanced by 56 and Traffic Apprentice by 64 as per the requirement projected by SA Division.*

2. *As against four Pro-ASMs already transferred by PGT Division to SA Division, 2 more SMs will be relieved to PGT Division.*

3. *10 ASMs and 7 Traffic Apprentices who have been temporarily posted to PGT Division will be relieved to SA Division and to that extent, SA Division will relieve 17 ASMs in the order of priority. This is further subject to the condition that on mutual consultation, it has to be ensured that vacancies in the particular grade do exist at PGT Division before relieving.*

4. *5 ASMs allotted to PGT Division and undergoing training will be completing training during January 2009. They will be sent to SA Division in lieu of which SA Division will relieve 5 SMs to PGT Division.*

5. *There are 12 Traffic Assistants selected through LDCE and undergoing training at PGT Division. Out of them*

three belong to the present PGT Division jurisdiction and 9 are from the present SA Division jurisdiction. The 9 Traffic Apprentice who belong to SA Division jurisdiction will also be relieved to SA Division. Accordingly, 9 S,Ms in the order of priority will be relieved by SA to PGT Division.

6. It was represented by DPO/SA that relieving of SMs having lien at PGT Division will amount to overlooking the priority of IRT registrants, order in favour of whom have already been issued. In this regard, it is made clear that the position of the SMs having lien at PGT Division is different from such of those SMs of SA Division, who have requested for transfer to other Railways. The PGT Division SMs continue their lien with PGT Division ever since formation of SA Division and they are to be relieved to PGT Division, which is not a case of transfer. Thereby, it may not be a case of overlooking the priority registrants."

5. The above aspects have been lucidly explained by DPOs (Shri N.Govindan and Smt Chandrika Jayasanker) . which clarified the entire issue.

6. Counsel for applicant submitted that in so far as Inter Railway transfers are concerned, notwithstanding the fact that certain orders would have been passed for such transfer, by virtue of the fact that the applicants' case deserves priority, action to transfer the applicant to Palghat Division be taken on priority basis and it is only after such transfer is effected and subject to availability of vacancies, that transfers under the Inter Railway transfers be effected.

7. The submissions of the counsel for applicants has been considered. Since on account of bifurcation of Palghat Division, the applicants are now under Salem Division, whereas their request is for Palghat Division, they stand in a better footing to have their transfer to Palghat Division in preference to any other kind of transfer to or outside Palghat Division. As such, respondents should consider effecting transfers

6


of the applicants herein to Palghat Division as and when vacancies arise and after completion of such transfers if vacancies exist they may consider for Inter Railway transfers. Inter Railway transfers outside Salem should not delay the transfer of the applicants to Palghat Division.. Though no time limit can be specified in this regard, it will be appropriate to suggest that transfer order be issued immediately as and when vacancies arise.

8. Before concluding we place on record, the valuable assistance rendered by Divisional Personnel Officers of Salem and Palghat Divisions which had really brought the controversy to an amicable end. It is appropriate to cite here the decision by Hon'ble Mr. Justice V.R. Krishna Iyer in **Kanta Goel vs. B.P.Pathak** where it is stated "*so heartening to the judges' bosom is the happy ending of a bitterly fought litigation where the law is declared by the Court and justice is accomplished by the parties settling the differences, assisted by activist judicial suggestions and promoted by constructive counselling by advocates.* (We may add "counselling by departmental representatives as well.")

9. The OA is disposed of. No costs.

Dated, the 14th October, 2008.


K.NOORJEHAN
ADMINISTRATIVE MEMBER


Dr.K.B.S.RAJAN
JUDICIAL MEMBER

VS