

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH BANGALORE

DATED THIS THE 9th JANUARY 1987

Present : Hon'ble Sri Ch. Ramakrishna Rao - Member (J)
Hon'ble Sri L.H.A. Rego - Member (A)

APPLICATION No. 284/86

H.N.N. Murthy
Executive Engineer (Construction)
Southern Railways,
Sakleshpur
Hassan District - Applicant

(Sri S.Shivaswamy, Advocate)

and

1. General Manager
Southern Railways,
Madras
2. General Manager (Construction)
Southern Railways
Bangalore Cantonment
Bangalore 560 046
3. Chief Personnel Officer
Southern Railways
Madras
4. Railway Board
Railway Bhawan
New Delhi by its Secretary - Respondents

(Sri A.N. Venugopal, Advocate)

This application came up for hearing before
this Tribunal and Hon'ble Sri Ch. Ramakrishna Rao,
Member (J) to-day made the following

O R D E R

This application was initially ^{filed under} as a writ petition
before the High Court of Karnataka and subsequently
transferred to this Tribunal. The facts giving rise
to this application are as follows. The applicant

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was working as Assistant Engineer ('AE') in the South Eastern Railway ('SER') in 1969 when he applied for a transfer for a post in the Southern Railway ('SR'). He was not given any posting in the SR but was appointed in 1977 as AE in the Metropolitan Project (Railways), Madras ('MPR') and transferred to Madras in that capacity. As the post of AE in MPR was surrendered, he was posted in the SR granting him the bottom seniority. Aggrieved by this posting the applicant has filed this application.

2. Shri S. Shivaswamy, learned counsel for the applicant, submits that when his client made a request initially for transfer from SER to SR he was under the impression that his seniority would not in any way be affected on account of the transfer; that when the matter was taken up by the MPR with the Railway Board ('RB'), the latter asked the former to ascertain the willingness of his client to accept the bottom seniority and other conditions contained in the RB's letter dated 3.12.77; that his client ^{and} ~~had~~ sent a reply dated 2.2.79 to the RB seeking relaxation of the condition regarding bottom seniority; that despite his client's reply the SR passed an order on 24.6.1980 transferring him to Construction Organisation under the General Manager, Bangalore, which is not legally sustainable.

3. Sri A.N. Venugopal, learned counsel for the respondents, submits that the RB had made the position clear to the applicant regarding seniority and as such the applicant is bound by the provisions governing inter-zonal transfers.

~~and~~ ~~xxx~~ ~~xx~~ ~~xxx~~ ~~xxx~~ ^{and}

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4. We have considered the matter carefully. In our view, the order dated 24.6.80 passed by the SR (Annexure 'A') being contrary to the request made by the applicant in his letter addressed to RB (Annexure 'C') has no legal validity. It is not open to the SR to place the applicant in a ^{und} on him disadvantageous position by thrusting/a transfer in which he was not interested. We, therefore, set aside the order dated 24.6.1980 of the SR (Annexure 'A').

5. During the course of the hearing Shri Shivaswamy submitted that his client would prefer a posting to ~~LAD~~ SER on the basis since he continued to remain in service ^W. There is force in this submission. in SER. We, therefore, direct the respondents to take steps for repatriating the applicant to SER at an early date and in any case not later than ^{two} months from the date of receipt of this order.

6. The application is disposed of in the light of the above directions. No order as to costs.

Ch. Arunachala
Member (J) 9.1.87

AP
Member (AM) 9.1.87

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
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Commercial Complex (BDA),
Indiranagar,
Bangalore - 560 038

Dated : 27-87

Review APPLICATION NO 41/87 /
In Application No. 284/86 (T)

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Applicant
H.N.N.Murthy

V/s. The General Manager, S.R. and others.

To

1. Shri.H.N.N.Murthy
Executive Engineer(Construction)
Southern Railways,
Sakalespur
Hassan District.
2. Shri.K.Narasimhamurthy,
Advocate,
104 A, Queens Corner Apartments,
30, Queens Road,
Bangalore- 1.

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER ~~XXXXXX~~/
~~XXXXXX~~ passed by this Tribunal in the above said
application on 25th June, 1987.

Jee
SECTION OFFICER
(JUDICIAL)

Encl : as above

CENTRAL ADMINISTRATIVE TRIBUNAL:BANGALORE

DATED THIS THE 25TH DAY OF JUNE,1987.

PRESENT:

Hon'ble Mr.Justice K.S.Puttaswamy,

.. Vice-Chairman.

and

Hon'ble Mr.L.H.A.Rego.

.. Member.

REVIEW APPLICATION NO.41 OF 1987.

H.N.N.Murthy.

.. Applicant.

(By Sri K.Narasimhamurthy,Advocate)

v.

The General Manager,
Southern Railways and others.

.. Respondents.

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This application coming on for hearing this day, Vice-Chairman made the following:

O R D E R

In this application made under Section 23(3)(f) the applicant has sought for review of an order made on 9-1-1987 in A.No.284 of 1986.

2. We find that the order had been made accepting a submission made by the applicant himself which he now seeks to resile on the ground that he is due to retire in the near future. We are of the view that that ground even if correct does not warrant a review. We find no patent error in the order made to justify a review. We see no merit in this application. We, therefore, reject this application at the admission stage without notice to the respondents.



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VICE-CHAIRMAN
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE
25/6/87
True copy
25-6-87

MEMBER(A)