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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.387/92

DATE OF JUDGEMENT: 7 DECEMBER, 1992

BETWEEN

Sri M.L.Antony .. Applicant

and

1. Union of India rep by
General Manager,
South Central Railway
Secunderabad.
2. Chief Operating Superintendent
South Central Railway
Secunderabad
3. Divisional Railway Manager
South Central Railway
Guntakkal
4. General Manager
Southern Railway
Madras .. Respondent

Counsel for the Applicant : Mr G.Ramachandra Rao

Counsel for the Respondents : Mr V.Bhimanna, SC for Rlys

CORAM:

HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER(JUDL.)

T. Chandrasekhara Reddy

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*JAP
Q.Y.*

JUDGEMENT OF THE SINGLE MEMBER BENCH DELIVERED BY
HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER(JUDL.)

This is an application filed under Section 19 of the Central Administrative Tribunals Act, 1985, to direct the respondents to issue an order to relieve the applicant to effect his transfer from Guntakkal Division(SCRly) to Trivandrum(SRly) in pursuance of the proceedings No.P(S)/676/11/10/IRT/Vol.X dated 20.12.84 with all consequential and attendant benefits.

2. The facts so far necessary to decide this OA may briefly be stated as follows:

3. The applicant is working as Assistant Station Master in Guntakkal Division of the South Central Railway. He has been working in the said capacity as Asst. Station Master in the Guntakkal Division since 15.1.1982. He made a representation to the Railway Administration on 4.6.84 to transfer him to Trivandrum in the Southern Railway on the ground, that his wife was working there. The southern railway had consented for the absorption of the applicant, if the applicant was transferred within six months from the date of the consent. By an order dated 24.11.88, 5 employees of ASM cadre working in the Guntakkal Division of the South Central Railway were relieved of their duties to join Southern Railway on request transfers. The grievance of the applicant is that the names of the said 5 ASMs had not at all figured in the priority list for request transfers that was communicated by third respondent through his letter dated 13.2.91 and that the applicant is discriminated in the matter of the said request transfer from South Central Railway to Southern Railway. Hence, the present OA is filed for the relief as indicated above.

4. Counter is filed by the respondents opposing this OA.

5. When this OA was taken up for hearing on 6.11.92, this Tribunal directed the respondents to produce the

applications of the 5 employees who are said to have been transferred from Guntakkal on priority basis allegedly giving a go by to the seniority of the employees like the applicant herein and also the application of the applicant for his request transfer. Accordingly, on 16.11.92, the respondents produced the applications of the following ASMs of Guntakkal Division, who are said to have been transferred as per orders dated 24.11.88.

1. Chandrasekhar	ASM/GPY
2. N. Janardhan	ASM/GPY
3. S. Narayana	ASM/GG
4. K. Anantha Jyothi	ASM/VKI
5. M. Rajendran	ASM/TGDE

The request transfer application of the applicant was also produced on 16.11.92. In the presence of Mr. Ramachandra Rao, Counsel for the applicant, the dates of the request transfer applications were scrutinised. From the scrutiny, it became evident that all the said 5 persons had applied for request transfers from South Central Railway to Southern Railway on 30.6.81, 31.8.82, 27.1.83, 1.7.82 and 24.7.81 respectively. The date of application of the applicant herein, as could be seen was 4.6.84. The initials on the said applications would go to show that the said application for transfer had been received in the office either on the date of the application itself or within a couple of days from the dates of the applications as the said applications were sent by post. But, it was quite evident that the said 5 persons viz., Chandrasekhar, Janardhan, Narayana, Anantha Jyothi and Rajendran had applied for their transfer much earlier than the applicant herein.

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So, the action of the respondents in transferring the said five persons from Guntakkal(SCRly) to Southern Railways is certainly valid and it is not open for the applicant to make a grievance ~~with~~ ^{out of} the transfer of the said 5 persons as the said 5 persons are not only seniors to the applicant in the cadre of ASM in the Guntakkal Division but as already pointed out, had applied much earlier to the applicant for their transfer from Guntakkal(SCRly) to Southern Railways. After the said position became clear, the applicant still complains that the respondents have shown discrimination by transferring one Sri Vedanayanakan who had applied much later than the applicant for request transfer from Hubli(SCRly) to Southern Railways. Of course, the said Vedanayakan had applied later than the applicant for his transfer from Hubli(SCRly) to Southern Railways seems to have been transferred in the year 1988 from the Hubli Division to Southern Railways.

Whenever an inter-railway transfer of an employee has got to be effected, the procedure is that the railway where the employee is working will ask the other railway where the employee seeks transfer for its consent. After consent has come, the position will be examined by the railways where the employee is working and the employee will be relieved within six months from the date the other railway has consented for absorption.

In the year 1988, when the said Vedanayakan of Hubli Division (SCRly) was transferred, the Guntakkal Division was not in a position to spare any ASM. But as Hubli Division was in a position to spare the said Vedanayakan, the respondents seems to have transferred the said Vedanayakan to Southern Railways. As could be seen, the inter-railway transfer is being effected on the basis of seniority in the

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respective Divisions. The fact that there are others also above the applicant who are seeking transfers to Southern from Guntakkal Division(SCRly) Railways is quite evident from the records. The respondent seem to be effecting transfers not on the ^{zonal} seniority basis, but seniority on the respective Divisions that too, when the Division is in a position to spare the employee. So, it is not open for the applicant to compare himself with the said Vedanayakan who was working in the other Hubli Division and complain that he is discriminated.

As already pointed out, as the said transfers are effected on the basis of seniority in the Divisions and as there are also some other employees above the applicant who are seeking similar transfers on request from Guntakkal Division(SCRly) the respondents have not taken up the case of the applicant herein. No doubt, the names of the said 5 persons who were transferred in the year 1988 is not shown in the ^{priority} list that was circulated with regard to the transfers; ~~but~~, even though the names of the those 5 persons are not appearing in the ^{priority} circulated list, no malafides can be attributed to the respondents in effecting the said transfer as their applications disclose that they had applied much earlier than the applicant for their transfer from South Central Railway to Southern Railway. The non-mention of the names of the said 5 persons in the priority list of transfers purely appears to be a mistake on the part of the respondents of which the applicant cannot take advantage. We do not see any discrimination in the matter of transfer of the applicant and the applicant has to wait for his turn in the matter of transfer from Guntakkal Division(South Central Railway) to Southern Railways.

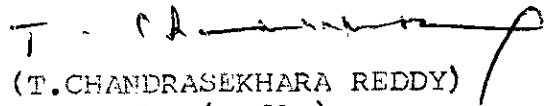
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Smt. G. J.

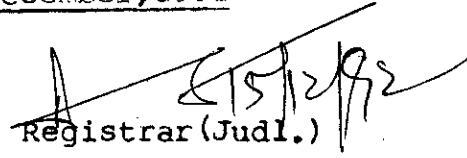
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We see no merits in this OA and this OA is liable to be dismissed and is accordingly dismissed leaving the parties to bear their own costs.


(T. CHANDRASEKHARA REDDY)
Member (Judl.)

Dated: 7 December, 1992

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Dy. Registrar (Judl.)

Copy to:-

1. General Manager, South Central Railway, Union of India, Secunderabad.
2. Chief Operating Superintendent, South Central Railway, Secunderabad.
3. Divisional Railway Manager, South Central Railway, Guntakal.
4. General Manager, Southern Railways, Madras.
5. One copy to Sri. G. Ramachandra Rao, advocate, CAT, Hyd.
6. One copy to Sri. V. Bhimanna, SC for Railways, CAT, Hyd.
7. One spare copy.

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HYDERABAD BENCH

HYDERABAD

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: AT HYDERABAD

THE HON'BLE MR.

V.C.

AND

THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY: M(J)

AND

THE HON'BLE MR. C. J. ROY : MEMBER (JUDL)

Dated: 7/12/1992

ORDER/JUDGMENT:

~~R.A./C.A./M.A.No.~~

in

O.A. No.

387/92

~~T.A.No.~~

(W.P.No.)

Admitted and Interim directions issued

Allowed

Disposed of with directions

Dismissed

Dismissed as with drawn

Dismissed for default

M.A. Ordered/Rejected

No order as to costs.

pvm.

14/12/92
Central Administrative Tribunal
DESPATCH

18 DEC 1992

HYDERABAD BENCH.