

(16)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD.

O.A.NO.167 of 1996.

Between

Dated: 6.3.1996.

V.V.L. Narasimhulu

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Applicant

And

- ✓ 1. General Manager, South Eastern Railway, Garden Reach, Calcutta.
- ✓ 2. Chief Mechanical Engineer, South Eastern Railway, Garden Reach, Calcutta.
- ✓ 3. Sr. Divisional Mechanical Engineer(D), South Eastern Railway, Visakhapatnam.
- ✓ 4. Asst. Personnel Officer, South Eastern Railway, Visakhapatnam.

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Respondents

O.A.NO.168/1996.

Between

Dated: 6.3.1996.

P.Manohar

...

Applicant

And

- ✓ 1. General Manager, South Eastern Railway, Garden Reach, Calcutta.
- ✓ 2. Chief Mechanical Engineer, South Eastern Railway, Garden Reach, Calcutta.
- ✓ 3. Sr. Divisional Mechanical Engineer(D), South Eastern Railway, Visakhapatnam.
- ✓ 4. Asst. Personnel Officer, South Eastern Railway, Visakhapatnam.

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Respondents

O.A.NO.169/96.

Between

Dated: 6.3.1996.

P.Kannayya

...

Applicant

And

- ✓ 1. General Manager, S.E.Railway, Calcutta.
- ✓ 2. Divisional Railway Manager, S.E.Railway, Visakhapatnam.
- ✓ 3. Sr. Divisional Mechanical Engineer(D), South Eastern Railway, Visakhapatnam.
- 4. K.Chakravarthy.
- 5. P.H.Rao

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Respondents

Counsel for the Applicants

: Sri. P.Krishna Reddy in O.A.168 and O.A. 167 of 1996.

: Sri. Y.Subrahmanyam in O.A.169/

: Sri. V.Bhimanna, SC for Rlys, in all the OAs.

CORAM:

Hon'ble Mr. R.Rangarajan, Administrative Member

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O.A.167/96,
O.A.168/96 &
O.A.169/96.

Dt. of Decision : 06-03-96.

ORDER

(As per Hon'ble Shri R. Rangarajan, Member (Admn.))

Heard Shri P. Krishna Reddy, learned counsel for the applicants in OA.167/96 & OA.168/96, Shri TVVSMurthy for Shri Y.Subramanyam, learned counsel for the applicant in O.A.169/96 and Shri V. Bhimanna, learned counsel for the respondents in all the OAs.

2. All the three OAs are disposed of by a common order as the points involved for consideration are same.

3. The applicant in OA.167/96 who is a Fitter in DLS/Waltair was transferred in the same capacity to DLS/Ranchi by office order No.WPV/400/161 dated 02-02-1996 (Annexure-I). The applicant in OA.168/96 who is a Khalasi Helper in DLS/Waltair was also transferred in the same capacity to DLS/MIB by office order No.WPV/400/168 dated 02-02-1996. The applicant in OA.169/96 who is a Fitter in DLS/Waltair was transferred in the same capacity to DLS Baripada by office order No.WPV/400/16/A dated 02-02-1996. The applicants in these OAs are assailing the transfer order quoted above so far it pertains to them.

4. The factual position of the case which lead to the transfer was perused from the relevant records. The short brief for transfer has been indicated in my note dated 23-02-96.

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5. It is stated for the respondents that one of the employees of the DLS/Waltair was taken up under the Railway D&A Rules for lapses which was protested against by the employees of DLS/Waltair and hence they resorted to stoppage of work on 12-01-1996. It is further stated that the applicants in these OAs took leading part in the agitation. To maintain discipline in the DLS/Waltair and to ensure proper functioning of DLS/Waltair the identified employees who took active part in the agitation were transferred to various other sheds as indicated in the transfer orders. It is also submitted that the transfer orders were issued by the Chief Mech. Engineer who is competent to issue such transfer order from one unit to another unit. It is further stated that the persons who took active part in the agitation were identified on the basis of the fact finding enquiry held by two Assistant Officer viz., ACMP, Diesel Shed, Waltair and APC, Waltair.

6. The main contention of the learned counsel for the applicants is that the transfer order issued is not by the competent authority and only the CPO is a competent authority to issue such orders. The second contention of the applicants' counsel is that none of the transferred employees took active part in the agitation and hence their transfer is a punitive one.

7. It is well known fact in Railways that the Heads of department of the concerned department approves the transfer orders from one unit to another unit and on behalf of the department



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the Chief Personnel Officer or his subordinate officers issue transfer orders on the basis of the approval given by the concerned Head of the department. In these cases the Chief Mech. Engineer who is the Head of the Mechanical Organisation has approved the transfer order and hence there is no illegality in issuing the transfer orders. But whether the applicants in these OAs took active part in the agitation and hence they are liable to be transferred from DLS Unit ^{to other units elsewhere} ~~within~~ in SE Railway is a moot point for consideration. In such cases the only competent authority who can decide this issue is the General Manager who is Head of the SE Railway. As in these cases the ~~CMB~~ has approved the transfer orders the General Manager automatically becomes the appellate authority to review the transfer orders. In view of ~~what~~ is stated above it is a fit case for the applicants to submit a representation explaining their stand to the General Manager who should dispose of these representation within a short period as the applicants are on leave. Till such time their representations are disposed of the applicants in these OAs should be allowed to continue on leave as per rules if they apply for leave.

8. In the result, the following direction is given:-

Applicants in these OAs should submit a detailed representation to R-10, the General Manager, SE Railway, separately within a period of 7 days from the date of receipt of a copy of

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Copy to:-

1. General Manager, South Eastern Railway, Garden Reach, Calcutta.
2. Chief Mechanical Engineer, South Eastern Railway, Garden Reach Calcutta.
3. Sr. Divisional Mechanical Engineer(D), South Eastern Railway, Visakhapatnam.
4. Asst. Personnel Officer, South Eastern Railway, Visakhapatnam.
5. Divisional Railway Manager, South Eastern Railway, Visakhapatnam.
6. ~~One~~ copy to Sri. P.Krishna Reddy, advocate, CAT, Hyd.
7. One copy to Sri. Y. Subrahmanyam, advocate, CAT, Hyd.
8. One copy to Sri. V.Bhimanna, SC for Railways, CAT, Hyd.
9. One copy to Library, CAT, Hyd.
10. One spare copy.

Rsm/-

13/16/1977

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this order and sending the same by RPAD to R-1. If such representation is received by R-1 namely General Manager, SE Railway, he should dispose of those representation preferably within 21 days from the date of receipt of the representation and in any case on or before the expiry of one month from the date of receipt of the representation. Till such time the representations are disposed of the applicants should be granted leave if they apply for the same in accordance with rules.

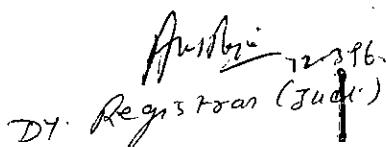
9. The applicants are free to approach this Tribunal by filing a fresh CA under section 19 of the AT Act if they are aggrieved by the reply to be given by General Manager, SE Railway.

10. The OAs are ordered accordingly at the admission stage itself. No costs.



(R. Rangarajan)
Member (Admn.)

Dated : The 6th March 96.
(Dictated in Open Court)


D.Y. Registrar (Judge)

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DA's 167/964 Batch

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD.

R. Ranga Rajan
HON'BLE SHRI A. O. GORTHI : MEMBER(A)

HON'BLE SHRI

DATED: 6/3/96

ORDER/JUDGMENT

M.A. NO./R.A./C.A. NO.

IN

R.A. NO. 167/96, 168/96, 169/96

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

* * *

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केन्द्रीय प्रशासनिक अधिकारम्
Central Administrative Tribunal

प्रेषण/DESPATCH

14 MAR 1996 NRP

हैदराबाद व्यापारीठ
HYDERABAD BENCH