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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00666/2014

Thursday, this the 22nd day of November, 2018

C O R A M :

**HON'BLE Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER
HON'BLE Mr.ASHISH KALIA, JUDICIAL MEMBER**

Krishnankutty P.K, S/o.Kunjan,
Panamkutty House, Koovappady P.O,
Koovappady Village, Koodalappadu Kara,
Kunnathunadu Taluk, Perumbavoor,
Ernakulam District, Kerala.

Address of Registered Office

Krishnankutty P.K,
Peon/RCT, Ernakulam,
D.H.Road, Cochin -16, Kerala.

....Applicant

(By Advocate – Mr.P.S.Sujeth)

v e r s u s

1. The Registrar,
Railway Claims Tribunal,
Principal Bench, 13/15,
Mall Road, Delhi -110 054.

2. The Addl.Registrar,
Railway Claims - Tribunal
Ernakulam – 682 016.

...Respondents

(By Advocate – Mr.N.Anilkumar,SCGSC)

This application having been heard on 13th November 2018, the Tribunal on 22nd November 2018 delivered the following :

ORDER

Per : Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

O.A.No.180/666/2014 is filed by Shri.P.K.Krishnankutty, Personal Peon attached to Railway Claims Tribunal (RCT), Ernakulam on deputation.

He has sought the following reliefs through the O.A :

1. To call for the records pertaining to the issuance of the Annexure A-1 rejection order against the representation given as per the order passed by this Hon'ble Tribunal and quash the same and quash Annexure A-2 repatriation order also.
2. To award the cost and incidental to this application.
3. To grant such other relief, which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

2. The applicant claims having worked as a Catering Server in the Kerala Express for the last several years until he was appointed on deputation basis as a Peon in CCM/O/MAS, Head Quarters at Chennai. He has been now working at RCT, Ernakulam as a Personal Peon to Hon'ble Member Technical on deputation, having joined the office on 25.7.2013. He had sought the deputation to Kerala due to ill health of his wife and mother and was looking forward to retiring from his station at Ernakulam.

3. He alleges that due to his failure to oblige the Hon'ble Member Judicial of RCT at Delhi (where he was working earlier) action was initiated by the Registrar, RCT, Delhi to repatriate him through an order dated 27.11.2013 (Annexure A-1). The applicant approached this Tribunal

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through O.A.No.180/30/2014 and obtained an interim stay against the implementation of the repatriation order. This stay has been continued with till date. There was also a further direction in the said O.A that the respondents were required to consider the representation made by the applicant to cancel the order of repatriation. A copy of the order of this Tribunal in O.A.No.180/30/2014 is at Annexure A-4. However, the Registrar of the Principal Bench by order dated 15.7.2014 informed the applicant through a very brief order that his representation has been considered and rejected for want of merit. This order is under challenge in the O.A.

4. The applicant contends that the impugned order is a non-speaking one and clearly shows that no independent inquiry had been conducted on the allegation levelled against the applicant. The RCT claims that the applicant is being repatriated on administrative grounds. But the grounds have not been indicated. According to the applicant he has 34 years of blemishless service and has never been hauled up for misconduct or indiscipline. The repatriation of the applicant from RCT, Ernakulam would cause him great personal difficulties. He also goes on to mention several grievances and complaints against the then Hon'ble Member Judicial of RCT and concludes that his repatriation has been motivated by *malafide*.

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5. In the reply statement filed on behalf of the respondents it has been stated that it is wrong to surmise that there had been no due consideration of the directions of this Tribunal. Although the order issued rejecting his representation at Annexure A-1 is brief, Annexure R-1(a) is a detailed extract of the consideration extended to the applicant vis-a-vis his grievances. The applicant was on deputation to RCT and his deputation was governed under the guidelines at Annexure R-1(b) which is a communication of the Railway Board dated 1.10.2007.

6. We have heard Shri.P.S.Sujeth, learned counsel for the applicant and Shri.N.Anilkumar, Sr.PCGC. On 13.11.2018 when the case was posted for final hearing Shri.P.S.Sujeth, learned counsel for the applicant filed a petition to accept additional Annexures A-7, A-8 and A-9 as bench mark. These documents were accordingly perused. At Annexure A-7 are the details of certain vacancies with RCT, Delhi while Annexure A-8 are copies of photos of what the applicant claims to be his feet which are affected by diabetes and Annexure A-9 are two certificates issued by two Private Hospitals claiming that he has undergone Angioplasty. Learned counsel for the applicant admitted that the applicant has been continuing on deputation with RCT, Ernakulam for the last four years on the strength of an interim order issued by this Tribunal on 23.8.2014.

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7. As a deputationist he is governed by the mutual consent of his parent department as well as the department which receives the services. Clearly the Railway Claims Tribunal where he has been deputed had ordered that he be repatriated to his parent cadre by order at Annexure A-2 which has been stayed by this Tribunal. The applicant has raised various complaints against a Member of the Tribunal and the case has been examined at length as is seen at Annexure R-1(a) before communicating the rejection order dated 15.7.2014.

8. We are not inclined to accord much importance to the documents which were brought before us during the final hearing allegedly certifying to the ill health of the applicant. The applicant despite being a railway employee has not gone to a Railway Hospital and the certificates are from a Private Hospital. As also the photos allegedly showing the state of his feet are unauthenticated. This appears to be a clever way to extend the benefits of the stay order which he has been enjoying for the last four years. The attempt of the applicant to cast himself in the role of a helpless victim against the unrelenting demands of a Member of the Tribunal is not a convincing one. The terms of his deputation are stated in the Railway Board letter, a copy of which is available at Annexure R-1(b). He is required to function to the satisfaction of the organization he is deputed to. That does not appear

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to have been the case here. The O.A is thus dismissed as lacking in merit.

The interim order issued by this Tribunal on 23.8.2014 stands vacated.

No costs.

(Dated this the 22nd day of November 2018)

ASHISH KALIA
JUDICIAL MEMBER

E.K.BHARAT BHUSHAN
ADMINISTRATIVE MEMBER

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List of Annexures in O.A.No.180/00666/2014

1. **Annexure A-1** – True copy of the reply notice informing the rejection of representation by the Railway Claims Tribunal, Delhi.
 2. **Annexure A-2** – True copy of the Repatriation Order dated 27.11.2013 date corrected as 23.12.2013 and received by the applicant on 26.12.2013.
 3. **Annexure A-3** – True copy of the order passed by the Hon'ble Central Administrative Tribunal, Ernakulam.
 4. **Annexure A-4** – True copy of the O.A.No.180/00030/2014 filed before the Hon'ble Central Administrative Tribunal, Ernakulam.
 5. **Annexure A-5** – True copy of the representation given by the applicant as per the direction given by the Hon'ble Central Administrative Tribunal, Ernakulam.
 6. **Annexure A-6** – True copy of the Muster – 19.3.2014 Roll to be proved as false the allegation of irregular attendance.
 7. **Annexure A-7** – True copy of the Notification of vacancies call for the years 2013, 2014 & 2016.
 8. **Annexure A-8** – True copy of the photograph showing the current position of the limp under treatment of the applicant.
 9. **Annexure A-9** – True copy of the certificate issued by the Little Flower Hospital, Angamaly.
 10. **Annexure R-1(a)** – True copy of the order dated 10.7.2014.
 11. **Annexure R-1(b)** – True copy of the letter dated 1.10.2007.
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