

**Central Administrative Tribunal
Ernakulam Bench**

OA/180/00459/2018

Friday, this the 10th day of August, 2018

CORAM

**Hon'ble Mr.E.K.Bharat Bhushan, Administrative Member
Hon'ble Mr.Ashish Kalia, Judicial Member**

Draupadi Badaik, aged 37 years
W/o Krishna Badaik,
Track Maintainer
Office of the Senior Section Engineer/
Permanent Way/Kottayam.
Residing at Railway Quarters No.84
Near Lions Club
Kottayam Railway Station.

Applicant

[Advocate: Smt.Shameena Salahudheen]

versus

1. Union of India represented by
General Manager, Southern Railway,
Park Town, Chennai-600 003.
2. The Chief Personnel Officer
Southern Railway
Chennai-600 003.
3. The Senior Divisional Railway Manager
Southern Railway, Trivandrum Division
Trivandrum-14.
4. The Senior Section Engineer
Permanent Way, Southern Railway
Kottayam-686 001.
5. The Chief Personnel Officer
South Eastern Railway
Chakradharpur-833 102.
6. The Senior Divisional Personnel Officer
Chakradharpur Division, Odisha
South Eastern Railway-833 102.

Respondents

[Advocate: Sri S.Radhakrishnan]

This OA having been finally heard on 7th August, 2018, the Tribunal delivered the following order on 10th August, 2018:

ORDER

By E.K.Bharat Bhushan, Administrative Member

The applicant in the OA is a native of Odisha and mother of a one year old girl child. She is aggrieved by the refusal of the respondents to relieve her to join Chakradarpur Division of South Eastern Railway in spite of acceptance as conveyed from that Division. The 3rd respondent as per Annexure A1 has informed that she can be relieved only if the vacancy position improves. This is contrary to the mandate granted by the Railway Board order at Annexure A5.

2. She describes her serious personal difficulties in working in Kerala which is far away from her native State, Odisha. Having to take care of her infant girl as well as her mother who is 77 years old, she has struggled to complete 5 years of service and her representation was declined on the ground that she had not completed 5 years of service at Trivandrum Division. But now on completion of the said period, she is eligible for transfer. The stand taken by the 3rd respondent is unreasonable and causes great distress to the applicant who is a woman with no support at all, living in alien surroundings.

3. The respondents have filed a reply statement in which it is stated that Track Maintainers (Group-D posts) are selected on all India basis and the applicant who is a native of Odisha had opted for RRC (Railway Recruitment Cell) Chennai and was appointed in Trivandrum Division. Hence she could not have been unaware of the difficulties in working at a place outside her own State. Besides, there is substantial shortage in Track Maintainers in Trivandrum

Division and the allotments have not been in keeping pace with the requirement. Being a safety staff, the applicant should not put her own concerns above that of her employer - Railways.

4. Rule 226 of IREM Vol.I makes it obligatory for railway servants to be ready to work anywhere in the country. The reply statement concludes with the contention that it would not be possible to relieve employees without suitable replacements in categories such as Track Maintainers.

5. Heard Smt. Shameena Salahudheen, learned counsel for the applicant and Sri S.Radhakrishnan, learned counsel for the official respondents.

It is not denied that the applicant is a woman employee posted in Trivandrum Division, far off from her native State. The circumstances under which she is seeking transfer are not denied by the respondents and their only contention in attempting to block her transfer is that there is shortage of Track Maintainers. While it is true that she had applied through RRC Chennai, that would not be a sufficient reason to deny her inter-divisional transfer that she is entitled to under Railway Ministry's orders.

6. By way of rejoinder filed by the applicant, it was brought to our notice the contents of Railway Ministry letter No.E.55SR/6/6/3 dated 19th May 1955 as below:

“Requests from Railway Servants in Groups C&D for transfer from one Railway to another on grounds of special cases of hardships may be considered favourably by the administration. Such staff transferred at their request from one Railway to another shall be placed below all existing, confirmed and officiating staff in the relevant grade in the promotion group in the new establishment, irrespective of date of confirmation or length of officiating service of the transferred employees.”

7. While there is no case that the Railway should neglect safety, it cannot be used as a reason to deny a benefit to an employee, that too, a tribal woman from a far off State to avail of the facility of inter divisional transfer. If the shortage of personnel is such a major issue, the respondents have every means at their disposal to address the question in appropriate manner. Also, the accepting Division namely, Chakradarpur has also agreed to accommodate her. On a consideration of all factors, we conclude that the OA has merit and is to be allowed. We do so. The applicant will be relieved of her duties by Respondents 3 & 4 within 30 days of receipt of copy of this order. No order as to costs.

(Ashish Kalia)
Judicial Member

(E.K.Bharat Bhushan)
Administrative Member

aa.

Annexures produced by the applicant:

Annexure A1: Copy of the communication issued by the 3rd respondent No.V/P.677/I/IRT/Vol.14 dated 10.4.2018.

Annexure A2: Copy of the application for Inter Railway Transfer submitted by the applicant.

Annexure A3: Copy of the letter No.V/P.677/I/IDTR.IRT/Vol XI dated 28.12.2015.

Annexure A4: Copy of the letter No.SER/P-CKP/EE/222/DB/17 dated 28.12.2017.

Annexure A5: Copy of the Railway Board Order RBE No.12/2017 dated 10.2.2017.