

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**O.A No. 180/00708/2017**

Thursday, this the 24<sup>th</sup> day of May, 2018.

**CORAM:**

**HON'BLE Mr. U. SARATHCHANDRAN, JUDICIAL MEMBER  
HON'BLE Mr. E.K. BHARAT BHUSHAN, ADMINISTRATIVE MEMBER**

Kiran Bose,  
Aged 32 years, S/o. Chandrabose,  
Loco Pilot (Goods) Erode – 638 001.,  
Permanent Address: House No. SP/13/20(2)  
“Devamrutham”, Edavacode, Sreekaryam P.O.,  
Trivandrum – 695 017.

- Applicant

[By Advocate Mr. T.C. Govindaswamy]

**Versus**

1. Union of India represented by the General Manager,  
Southern Railway, Headquarters Office, Park Town P.O.,  
Chennai – 600 003.
2. The Chief Personnel Officer, Southern Railway, Headquarters Office,  
park Town P.O., Chennai – 600 003.
3. The Divisional Personnel Officer, Southern Railway, Salem  
Division, Salem – 636 005.
4. The Senior Divisional Personnel Officer, Southern Railway,  
Trivandrum Division, Trivandrum – 695 014.

- Respondents

[By Advocate : Mr. V.A. Shaji, ACGSC]

The application having been heard on 21.05.2018, the Tribunal on the 24.05.2018 delivered the following:

**ORDER**

**Per: E.K. Bharat Bhushan, Administrative Member**

1. OA 708/2017 is filed by Sri. Kiran Bose, Loco Pilot (Goods) Erode, a permanent resident of Trivandrum against the failure on the part of the respondents to grant his request for assignment on “spouse” ground for transfer to Trivandrum Division of Southern Railway. The reliefs sought in

the OA are as follows.

*(1) Declare that the applicant is entitled to be considered, transferred and appointed as Assistant Loco Pilot in the Trivandrum Division on 'spouse' ground, with reference to his priority of registration on 13.03.2014, with all consequential benefits arising therefrom and direct the respondents accordingly;*

*(2) Direct the Trivandrum Divisional authorities to issue appropriate orders, duly approving and transferring the applicant on 'spouse' ground, with reference to the date of registration of the application, i.e., 13.03.2014 and direct further to grant all consequential benefits arising there from;*

*(3) Award costs of and incidental to this application*

*(4) Pass such other orders or directions as deemed just, fit and necessary in the facts and circumstances of the case.*

2. To narrate the facts in brief, the applicant had been employed as an Assistant Loco Pilot from 07.07.2008 in the Salem Division of Southern Railway. On 07.12.2013 he got married to Ms. T. Nitya Rani who was at that time working as Agricultural Assistant, Grade II in Kottayam District under the Government of Kerala. He submitted an inter-divisional transfer application on spouse ground on 04.06.2013. As this was not forwarded, on 10.03.2014 he submitted another application, copy of which is available at Annexure A7. As he had no further information about the fate of his application, he submitted yet one more application on 08.06.2015, copy of which is at Annexure A8. Through RTI information received from Trivandrum Division, he was surprised to learn that his application had been registered in that division only in the year 2015 thereby causing him loss of seniority when inter-divisional transfers list of that division was drawn up.

3. In short, the applicant had submitted his application for inter-divisional transfer on spouse ground, complete in all respect on 10.03.2014 and there is no justification in Salem Division having retained it, forwarding it only on

01.07.2015 to Trivandrum Division. This delay on the part of respondent No. 3 has resulted in several subsequent applicants obtaining inter-divisional transfer to Trivandrum Division disregarding the applicant's claims.

The applicant has provided copies of the following documents in support of his claim.

- Annexure A1: - Ministry of Railways order bearing RBE No.147/97 dated 05.11.1997.
- Annexure A2: - Railway Board order bearing RBE No. 23/2010 dated 02.02.2010.
- Annexure A3: - Comprehensive transfer policy for Railway Officers communicated vide Railway Board letter dated 31.08.2015.
- Annexure A4: - Railway Board Order bearing RBE No.12/2017 dated 10.02.2017.
- Annexure A5: - Personnel Branch Circular bearing no. 13/2013 dated 25.02.2013.

4. The above orders and instructions form the basis on which transfers on spouse ground are governed under the respondent Railways.

5. As grounds the applicant contends that his rights enshrined under regulations of the Railways, to be accommodated at a station on spouse ground are being denied. He is particularly aggrieved that due to the delay on the part of the respondent organisation his application submitted on 10.03.2014 was held back by Salem Division resulting in Trivandrum Division accepting the same only on 01.07.2015. He states that the very same issue that he is agitating was decided by this Tribunal in OA 918/2013 through its order dated 21.11.2013 and he is entitled to similar benefits as granted to applicants in the said OA.

6. In the reply statement filed on behalf of Respondent Nos. 1 to 4, the facts relating to the applicant's service are not denied. However it is

contended that the original employment certificate of the applicant's spouse dated 25.02.2013, that accompanied the application filed on 10.03.2014 was over one year old and a more recent certificate had become necessary. So the application had not been forwarded to Trivandrum Division then. He has been assigned priority No. 14 in the 2017 list and his request is to be considered as per seniority.

7. Heard Sri. T.C. Govindaswamy on behalf of the applicant and Sri. V.A. Shaji, ACGSC represented by Ms. Dhanya on behalf of the respondents. We have considered the contentions in the OA as well as the reply statement and oral pleadings made. It is not denied that the applicant had submitted an Inter Divisional transfer application dated 10.03.2014. However, as the original employment certificate of the applicant's spouse was more than a year old from the date of application, the respondent did not act on the same. However, nowhere in the various orders at Annexures A1 to A5, the condition that the employment certificate of the spouse should not be older than a particular period is mentioned. From the table at Annexure A9 the date of application is shown as 13.03.2014 which indicates that it was accepted on that particular date. However it was only forwarded from Salem Division on 01.07.2015 which was more than a year afterwards. This delay is not explained in a satisfactory way and the date of the employment certificate of the spouse appears to be an afterthought to cover up the delay.

8. Facility of spouse being offered the same station or nearby station is an important facility available to employees in the respondent organisation. The respondents are expected to facilitate genuine requests submitted under this provision, rather than explore specious reasons to deny the same. It is also seen that in OA 918/2013 this Tribunal by its order dated 21.11.2013

(Annexure -A10) had clearly expressed this view that the applicant therein, who had been faced with a more or less similar situation, was to be considered as having submitted his application from the prior date. Based on the facts of the case, we feel that the applicant herein also deserves a similar treatment. The OA succeeds. The relief sought for is allowed in full. The applicant is to be considered from among applications for inter divisional transfer on spouse ground received in 2014 in Trivandrum Division. He is to be allowed the requested transfer on this basis/priority. This OA is disposed of as above with no order as to costs.

**(E.K. BHARAT BHUSHAN)**  
**ADMINISTRATIVE MEMBER**

**(U. SARATHCHANDRAN)**  
**JUDICIAL MEMBER**

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Applicant's Annexures

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|-------------|---|
| Annexure A1 | A true copy of Ministry of Railways order bearing RBE No. 147/97 dated 05.11.1997.  |
| Annexure A2 | A true copy of Railway Board Order bearing RBE No. 23/2010 dated 02.02.2010.  |
| Annexure A3 | A true copy of comprehensive transfer policy for Railway officers communicated by the Railway Board under No. E(O)III/2014/PL/05 dated 31.08.2015.  |
| Annexure A4 | A true copy of Railway Board order bearing RBE No. 12/2017 dated 10.02.2017.  |
| Annexure A5 | A true copy of Personnel Branch Circular bearing No. 13/2013 dated 25.02.2013 issued by the 2 <sup>nd</sup> respondent on behalf of the 1 <sup>st</sup> respondent General Manager under Rule 124 of the Indian Railway Establishment Code. |
| Annexure A6 | A true copy of application for inter-divisional transfer submitted by the applicant, forwarded to the DPO/Salem along with an endorsement by the Chief Crew Controller.   |

- Annexure A7 A true copy of application for inter-divisional transfer on spouse ground dated 12.03.2014 along with its covering letter.
- Annexure A8 A true copy of application for inter divisional transfer on spouse ground submitted on 08.06.2015, along with its covering letter.
- Annexure A9 A true copy of communication under Registration No. SRTVD/R/2017-50016 dated 13.06.2017, issued by the CPIO & Sr. Divisional Personnel Officer/Southern Railway/ Trivandrum Division.
- Annexure A10 True copy of order dated 21 November, 2013 in OA No. 918/2013, rendered by this Hon'ble Tribunal.
- Annexure A11 A true copy of order dated 19.06.2008 in O.A. No. 781/2007, rendered by this Hon'ble Tribunal.

Annexures of Respondents

Nil