

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 180/01099/2017

Monday, this the 11th day of June, 2018

CORAM:

Hon'ble Mr. U. Sarathchandran, Judicial Member
Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member

Jeni Mol K.J., aged 39 yeaers,
 D/o. K.J. Joseph, Helper Gr.II E4B/ELS, Erode,
 Southern Railway, having permanent residence at
 Kadeparambil House, Chennur, Kothad PO,
 Pin – 682 027. **Applicant**

(By Advocate : Mrs. Shameena Salahudheen)

V e r s u s

1. Union of India represented by the General Manager,
 Southern Railway, Chennai – 600 003.
2. The Chief Personnel Officer, Southern Railway,
 Chennai – 600 003.
3. The Senior Divisional Personnel Officer,
 Southern Railway, Trivandrum Division,
 Trivandrum – 14.
4. The Divisional Personal Officer, Southern Railway,
 Salem Division, Salem – 636 005. **Respondents**

(By Advocate : Mr. V.A. Shaji)

This application having been heard on 05.06.2018, the Tribunal on
 11.6.2018 delivered the following:

O R D E R

Per Hon'ble Mr. U. Sarathchandran, Judicial Member –

The applicant is a Helper Grade-II working in the Salem Division of
 Southern Railway at Erode. She had applied for inter-divisional transfer to

Trivandrum Division. She states that as per Annexure A1 application made by her for inter-divisional transfer to Diesel Shed, Ernakulam in the Trivandrum Division, the Personnel Department of the latter vide Annexure A2 communication has indicated that the competent authority of the Trivandrum Division has approved the inter-divisional one way transfer. Her grievance is that despite Annexure A2 communication the respondents are not issuing the orders of transfer and further that respondent No. 3 is making attempts to fill up the vacancy of Helper at Diesel Shed, Ernakulam.

2. The territorial jurisdiction of this Tribunal to deal with this OA was considered by us and it was decided that since part of the cause of action for the applicant has arisen within the territorial jurisdiction of this Tribunal, the OA can be admitted.

3. The Original Application was resisted by the respondents Southern Railway contending that Annexure A2 is only an internal communication and same does not confer any right to the applicant and that the applicant is not having any vested right for getting inter-divisional transfer. The respondents Railway points out that although she is working at Erode the applicant has approached this Tribunal describing herself as a resident of Kochi within the jurisdiction of this Tribunal which was a conduct to be deprecated. It is also contended by the respondents that the order of relieving had not been issued from the Electrical Loco Shed, Erode because there is no available reliever for replacing her in the Electrical Loco Shed, Erode. It is further stated that 16 employees have registered their names for

inter-divisional transfer and applicant's priority number is 9 for inter-divisional transfer and No. 2 for Trivandrum Division.

4. A rejoinder was filed by the applicant stating that she is only a Helper and that unlike the Technicians in the Electrical Loco Maintenance she is not an essential employee because Helpers are not doing the maintenance of Locomotives directly and they are only helping the Technicians. She further states that Shyam Kumar who was the first registrant in Helper category for inter-divisional transfer to Trivandrum division was already transferred to Trivandrum, relieved and has joined Trivandrum and therefore the applicant now stands first in the priority.

5. Heard Mrs. Shameena Salahudheen learned counsel appearing for the applicant and Mr. V.A. Shaji learned Standing Counsel for the Railways. Perused the record.

6. Learned counsel for the applicant relied on Annexure A4 instructions dated 30.6.2017 issued by the Railway Board. It reads:

“GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
RAILWAY BOARD

No.E(NG)I-2017/TR/13

New Delhi, dated 30.06.2017

The General Managers (P)
All Zonal Railways,
Production Units & RDSO, etc.

Sub:- Transfers of staff on Zonal Railways.

As the Railways are aware, in terms of extant rules as contained in Board's letter No. ERP/PortalI- Transfer/2013 dated 30.04.2014 once the mutual transfer order of non-gazetted railway staff is issued, the senior person should be relieved first and the entire exercise may be completed in a week's time. In case of one-way request transfer, although no time period has been prescribed by Board for

relieving an employee after his transfer order is issued, instructions exist that even for oneway request transfer, the requests should be dealt with in an organized manner so that there is no occasion for any grievance in the mind of the staff in regard to their handling of their request.

It has been brought to the notice of Board that orders for inter-railway/inter-division transfers are issued, after proper verification of vacancies, feasibility assessment etc. However, staff on various zones/divisions in spite of issue of transfer orders are not being released for several months and sometime for years together on the plea that either the reliever has not arrived at or there are significant number of vacancies to be filled up, causing hardships to staff.

Hon'ble MOS(G) has viewed the situation seriously and desires to be apprised of the position on a quarterly basis. Zonal Railways are, therefore, advised to submit status report indicating gradewise numbers of non-gazetted employees who have not been relieved to join their new establishment even after the issuance of the Transfer Order alongwith justification therefor.

The information as on 31.05.2017 may be sent immediately so that the position can be put up to Hon'ble Minister for his perusal. From now onwards, updated information may be sent to Board every 3 months without any delay.

Sd/-
(K. Meena)
Deputy Director Estt.(N)
Railway Board”

It is clear from Annexure A4 directions that the non-relieving of persons who have been granted inter-divisional transfer on the ground that the reliever has not arrived or that a number of vacancies are to be filled up shall not be a reason for relieving the persons who have been granted inter-divisional transfer.

7. Shri Shaji learned Standing Counsel for the respondents submitted that in the instant case the order of inter-divisional transfer has not been issued and that Annexure A2 communication is only an internal communication. He submitted that the divisional authorities in Salem Division will relieve the applicant from Erode as and when the substitute is posted and that there are no hands available for replacing the applicant.

8. Nevertheless, Annexure A2 indicates that the Trivandrum Division is willing and has approved the inter-divisional transfer of the applicant to the Trivandrum Division. Applicant states that she is a divorcee and that her children are living in Kerala along with her aged mother and therefore for helping the children to have a better education her presence in the family at her native place is required and hence on compassionate grounds she was seeking inter-divisional transfer.

9. We are of the opinion that the above reason stated by the applicant should weigh in the minds of the respondents while considering her case. She is only a Helper in the Electrical/Mechanical Loco Shed where trains are repaired. It cannot be said that she is an employee belonging to essential category in the workshop where maintainance work of trains are done. We find some force in the contention of the learned counsel for the applicant Smt. Shameena Salahudheen that the applicant being only a Helper, her relieving consequent to Annexure A2 communication will not cause any hindrance to the normal working of the Railway workshop at Erode.

10. In the circumstance that the Thiruvananthapuram Division has agreed to accept the applicant on inter divisional transfer and considering the fact that the applicant is a divorcee seeking transfer to her native place for providing better education to her children, we are of the view that the OA is only to be allowed. Accordingly, the OA is allowed. We had granted the interim relief of keeping one post of Helper vacant at the Diesel Shed, Ernakulam or at any other place at Trivandrum Division. The interim relief

already granted will continue in operation till the applicant is actually transferred to Trivandrum Division either in the Diesel Shed, Ernakulam or in any other suitable place within the Trivandrum Division. No order as to costs.

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

**(U. SARATHCHANDRAN)
JUDICIAL MEMBER**

“SA”

Original Application No. 180/01099/2017**APPLICANT'S ANNEXURES**

Annexure A1 – True copy of the application form submitted by the applicant.

Annexure A2 – True copy of the letter No. V/P676/IV/DSE/Vol IV dated 4.5.2017.

Annexure A3 – True copy of the representation dated 15.5.2017.

Annexure A4 – True copy of the Railway Board orders No. E(NQ)I-2017/TR/13 dated 30.6.2017.

RESPONDENTS' ANNEXURES

Annexure R1 – True copy of the letter No. P(R)676/P/Vol III (Registration for transfer)

Annexure R2 – True copy of the order dated 20.8.2013 in OA No. 697/2013.

-X-X-X-X-X-X-X-X-