

**Central Administrative Tribunal
Madras Bench**

OA 310/00942/2015

Dated Thursday the 22nd day of November Two Thousand Eighteen

P R E S E N T

**Hon'ble Mr. R.Ramanujam, Member(A)
&
Hon'ble Mr. P. Madhavan, Member (J)**

P.S. Pandia Moorthy
Senior Clerk
Mechanical Branch
Southern Railways ... Applicant
By Advocate M/s. R. Subramanian

Vs.

1. Union of India
Rep. by the General Manager
Southern Railway, Chennai – 3.
2. The Managing Director (CRIS)
Centre for Railway Information Systems (CRIS)
Chennai – 3.
3. The General Manager (CRIS)
Centre for Railway Information Systems (CRIS)
Chennai – 3.
4. The Divisional Manager
Southern Railway, Madurai.
5. The General Manager
Southern Railways, Chennai. ... Respondents

By Advocate **Mr. D. Hariprasad**

ORAL ORDER

Pronounced by Hon'ble Mr. R. Ramanujam, Member(A)

Heard. The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

“(i) In view of the facts stated above, the applicant respectfully prays that this Tribunal may be pleased to set aside the proceedings No. 2012/CRIS/NDLS-HQ/PERS/ESTAB/5245/129/PT-1 dt. 17.07.2014 passed by the 2nd respondent and permanently absorb the applicant as Assistant Manager, CRIS

(ii) To pass such further or other orders”

2. It is alleged that the respondents under whom the applicant served for a period of five years on deputation had overlooked the applicant's claim for absorption and waited for him to be reverted to accommodate others. The applicant was found fit in all respects for absorption and yet the respondents rejected his claim for absorption in an arbitrary manner through the impugned non-speaking order dated 17.07.2014 merely stating that the request of the applicant for permanent absorption had not been agreed to by the competent authority. As such the rejection of the applicant is violative of the procedure laid down to consider the cases for absorption. The applicant is, therefore, before us seeking the aforesaid relief, it is submitted.

3. Learned counsel for the applicant would argue that as there was a hostile discrimination against the applicant in the matter of absorption without assigning any reasons, the impugned order was liable to be quashed and a direction given to the respondents to absorb the applicant in their organisation.

4. Learned counsel for the respondents would, however, oppose the prayer submitting that the applicant was on deputation for a period of 5 years in IRCTC before being appointed on deputation in the Centre for Railway Information Systems (CRIS). After completion of 5 years therein, it was noticed that he was continuously on deputation for a period of 10 years away from his parent cadre which was not in accordance with rules. He was, therefore, reverted to the parent organisation. Since the applicant is no longer with the respondents, the question of absorption does not arise and the OA is accordingly infructuous, it is contended.

5. We have considered the case. It is not in dispute that the respondents passed Annexure A12 impugned order dated 17.07.2014 merely communicating the decision of the competent authority not to agree to his request for absorption. As such the order is non-speaking. On the other hand, it is also to be noted that no deputationist would have a right to absorption in an organisation unless the policy of the organisation permits the same and such a policy is applied in a discriminatory manner against the individual. We are accordingly of the view that the matter is not ripe for the Tribunal's interference. It would appear that the ends of justice would be met in this case if the respondents are directed to send a

detailed communication to the applicant explaining the reasons why he could not be absorbed within a period of two months from the date of receipt of copy of this order.

6. OA is disposed of with the above direction.

(P. Madhavan)
Member (J)

22.11.2018

(R. Ramanujam)
Member(A)

AS