

**Central Administrative Tribunal
Madras Bench**

OA/310/00533/2015

Dated the 30th day of July Two Thousand Nineteen

P R E S E N T

Hon'ble Mr. P.Madhavan, Member(J)
&
Hon'ble Mr.T.Jacob, Member(A)

R.Senthilkumar,
327/B, Railway Quarters,
Kallukkuzhi,
Near St. Antony's Church,
Trichy-20. .. Applicant
By Advocate **M/s.Giridhar & Sai**

Vs.

1. Union of India, rep by
Divisional Railway Manager,
Southern Railway,
Tiruchirappalli Junction,
rep. Union of India.
 2. Divisional Personnel Officer,
Divisional Railway Managers Office,
Southern Railway,
Tiruchirappalli Junction. .. Respondents
- By Advocate **Mr.P.Srinivasan**

ORDER

[Pronounced by Hon'ble Mr.P.Madhavan, Member(J)]

This is an OA filed seeking the following relief:-

“to call for records relating to Office Order No.M&G:Admn:02:2015, dated 06.1.2015 and quash the same;

to declare debarring order issued to the applicant as per para 224 of IREM is invalid and unconstitutional.

To direct the respondent to post the applicant as Chief Office Superintendent in existing vacancy at Tiruchirappalli Junction w.e.f. 06.8.2014 with all consequential benefits.

To award costs, and pass such further and other orders as may be deemed fit and proper and thus render justice.”

2. The brief facts of the case are as follows:-

The applicant is working as a Chief Office Superintendent (COS) w.e.f. 06.8.2014. He was ordered to be transferred to Work Shop Personnel Branch/Golden rock where there was no existing vacancy. But there existed 6 clear vacancies of Chief Office Superintendent at the Divisional Office at Trichchirappalli Junction (TPJ). His posting at GOC where there exist no vacancy is against IREM. Hence the applicant requested for retaining him at TPJ on 27.8.2014 (Annexure A2). But the respondents had rejected the same without any justification. According to him, one Balaji and one Madhava Kanna were promoted as Office Superintendent and retained at TPJ. The 2nd respondent had issued an order dated 06.1.2015 (Annexure A5) (impugned order) debarring him from promotion to the post of COS for a period of

one year. It is arbitrary and irrational and unreasonable and violative of Article 14 of the Constitution. The applicant has never refused the promotion. No notice is given before debarring promotion.

3. The respondents filed reply denying the averments in the OA. According to them, the applicant refused to accept the promotion to the post of COS. As per IREM 224, if an employee refuses to accept the promotion, he will be debarred from promotion for a period of one year. According to the respondents, the seniority of COS is different and it is not proper to say that Shri Balaji who is junior to the applicant was given a posting at TPJ. The applicant who was promoted has avoided giving willingness even after one month and it is in that circumstances Annexure A3 order was issued. He was given time to give willingness upto 11.9.14. Accordingly, the impugned order dated 06.1.15 was issued. The applicant was posted at GOC purely on exigencies of service and not for any other reason. IREM 224 states that “the employee refusing promotion expressly or otherwise (i.e. does not give in writing his refusal but also does not join the post for which he has been selected) is debarred for future promotion, but is allowed to be retained at the same station” (Annexure A2).

4. We heard Advocate Mr.Giridhar & Sai and Advocate Mr.P.Srinivasan appearing for the applicant and respondents herein. We had also perused the pleadings and annexures produced. On going through the facts of the case, we find that the applicant was promoted and posted as COS at GOC as per order dated 06.8.14. Admittedly, he did not join there and requested to retain him at TPJ. His

representation was not acceded to and the respondent had issued a letter asking the applicant his option regarding acceptance of promotion or not and it is specifically stated in the letter (Annexure A3) that if he does not make any option, it will be construed that he is unwilling to carry out the promotional transfer. So, there is no merit in the contention of the counsel for the applicant that the applicant was not given an opportunity of being heard. Instead of his giving willingness or unwillingness, he again wrote to the authority stating that he is seeking information under RTI seeking the actual vacancies as PB/TPJ/WPO/GOC stating that the authorities will cancel the order. From this, it is clear that even on 10.9.14 he was not ready to join at the place of posting and he has not filed his option. It was in such circumstances, the respondent had retained him at TPJ in the post of Office Superintendent treating that the applicant is unwilling to effect the transfer. Accordingly, he was debarred under IREM 224 for a period of one year from promotion. We could not find any arbitrariness or illegality in the impugned order passed as Annexure A5 dated 06.1.15.

5. Hence, we find that there is no merit in the OA and it is liable to be dismissed. Accordingly OA will stand dismissed. No costs.

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

30.07.2019

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