

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

**OA/310/00751/2019, OA/310/00625/2019, OA/310/00626/2019,
OA/310/00628/2019, OA/310/00630/2019, OA/310/00632/2019,
OA/310/00638/2019 & OA/310/00739/2019**

Dated Wednesday the 19th day of June Two Thousand Nineteen

**CORAM : HON'BLE MR. R. RAMANUJAM, Member (A)
HON'BLE MR. P. MADHAVAN, Member (J)**

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|----------------------------|------------------------------|
| 1. Sudhanshu Shekar Pathak |Applicant in OA 751/2019 |
| 2. Ram Swaroop Meena |Applicant in OA 625/2019 |
| 3. Sachidanand Prasad |Applicant in OA 626/2019 |
| 4. Deva Ranjan Suna |Applicant in OA 628/2019 |
| 5. Rajiv Kumar |Applicant in OA 630/2019 |
| 6. Churendra Kumar Gharat |Applicant in OA 632/2019 |
| 7. Hari Om Prasad |Applicant in OA 638/2019 |
| 8. Ravi Kumar Verma |Applicant in OA 739/2019 |

By Advocate M/s Ratio Legis

Vs

- | | |
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| 1. Union of India, rep by
The Chairman, Railway Board
Rail Bhavan, New Delhi | |
| 2. The General Manager
Southern Railway
Park Town, Chennai |Respondents R1, R2 in all OAs |
| 3. The General Manager
East Central Railway
Hajipur R.S
Vaishali district
Bihar 844101 |R3 in OAs 751, 626, 638, 739/2019 |
| 4. The General Manager,
West Central Railway
Jabalpur, Madhya Pradesh-482 001. |R3 in OA 625/2019 |

5. The General Manager
South East Central Railway
Bilaspur, Chhattisgarh-495004.R3 in OAs 628, 630, 632/2019
6. The Divisional Railway Manager
Tiruchirappalli Division,
Southern Railway
Trichy.R4 in OA 751, 739/2019
7. The Divisional Railway Manager
Chennai Division,
Southern Railway,
NGO Annexe, Park Town
Chennai-600003. ...R4 in OAs 625, 626, 628, 630, 632, 638/2019

By Advocates Mr.D.Hariprasad, Mr. A. Abdul Ajees

ORAL ORDER

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

Heard. As it is submitted that the issues involved and the relief sought in the OAs are of a similar nature, the OAs are taken up together for disposal by this common order.

2. The applicant in OA 751/2019 has sought the following relief :

"To call for the records related to the request made by the applicant for transfer registered on 21.07.2015 and consent was given on 01.06.2018 by the respondents and the impugned order dt. 04.02.2019 and to quash the same, to direct the respondents to relieve the applicant forthwith and to issue necessary relief memo to enable the applicant to carry out transfer to Ranchi Division in South East Central Railway and to order further order/orders as this Hon'ble Tribunal may deem fit and proper and thus render justice."

3. The grievance of the applicants who are either Station Masters or Loco Pilots is that in terms of the relevant provisions of the IREC, they were allowed Inter Railway Transfer (IRT) on request on the condition that they would acquire bottom seniority in the relevant recruitment grade at which they were transferred in the other railway zone with effect from the date of assuming charge therein. It is alleged that the respondents take their own time to consider such requests in the first place and grant approval thereto. In the process, the transfer seeker is made to suffer loss of seniority in the zonal railway to which he wishes to be transferred as there would be fresh appointments and promotions at the level at which they are transferred in the meantime. Any delay in approval of such cases necessarily entails an avoidable loss of seniority.

4. The situation is further aggravated when even after granting approval for

IRT, the competent authority fails to relieve the person concerned for joining duty in the other zone and keeps him waiting indefinitely on whatever grounds. Such indifference of the authorities not only defeats the objective of the relevant provision in the IREC that allows IRT on request but also creates a situation where the employee is left at the mercy of the authority concerned of the transferring railway zone, it is pointed out.

5. Learned counsel for the applicant would submit that persons such as the applicants already suffer a huge loss in terms of having to accept bottom seniority even at a lower level than presently occupied by them, only for the reason that they sought a transfer on personal grounds. They ought not to be put to any further hardship by delaying their relief from transferring railway zone. The IREC is silent on how the interests of such persons could be protected at least from the date the transfer was approved, if the transferred employee is only relieved after considerable delay for no fault of his. He would accordingly seek a direction to the competent authority to fill the void in the policy decisions of the respondents as recorded in IREC so that such employees are not subjected to unintended hardships by way of avoidable further loss of seniority.

6. Learned counsel for the respondents would, however, submit that IRT was not a matter of right for any employee. It is being allowed only on personal grounds subject to public interest which would override personal hardships. Since IRT is not a matter of right, there could be no time limit either on the grant of approval for such requests nor could there be a time limit for relieving the

employee from the date of approval which again would depend on availability of adequate manpower and replacements in the transferring division. If work in the transferring division is already suffering on account of large number of vacancies, relieving an employee approved for transfer might aggravate it. The competent authority would be justified in delaying the relieving of the transferred employee in such cases till the vacancies are filled so that the work in the transferring railways does not suffer.

7. We have considered the submissions. It is not in dispute that IRT is permissible in terms of the relevant provisions of the IREC, though it is not a matter of right. It is also not in dispute that there is no uniformity with regard to the time taken to approve such requests across railway zones. Uncertainties regarding relief from present post even after approval of IRT do aggravate the problem of loss of seniority for the transferred employee.

8. We also take note of the contention that public interest would override such individual concerns in accommodating the request transfers. As such, no time limit could be set by the Tribunal for the respondents to take a decision on such requests. It may even be difficult for the respondents to set a uniform time limit for themselves as the constraints faced by different transferring railway zones would be different at various points of time. We are, however, of the view that since such inter railway transfers entail the grant of only bottom seniority in the receiving railway zone and it is worse when such transfer is to a lower level, the transferee employees are bound to suffer a drastic erosion in their rank and

status, *vis a vis* their equals in the transferring railways over a period of time. In such circumstances, the competent authority must at least consider how to mitigate further loss of seniority after the approval of the IRT by securing the date of approval of transfer in some manner so that new appointees or promotees in the zone to which the employee is transferred after such date do not overtake the transferred employee in the meantime between the date of approval of transfer and the date of his joining at the new place, especially when the delay occurs for reasons beyond the control of the employee. As this is a policy matter, we refrain from stating how exactly this problem should be addressed.

9. Since it is submitted by the counsel for the applicants that IREC is silent on the above issue and accordingly there is a void in this regard in the policy, we deem it appropriate to direct the first respondent to consider the concern raised in the OAs as a policy issue and take an appropriate decision on whether and if so, how the interests of such transferred employees should be protected in regard to their seniority at least from the date from which they were approved for IRT, if they could not be relieved soon thereafter in public interest. Such policy decision may be taken and orders issued within a period of six months from the date of receipt of a copy of this order.

10. OAs are disposed of as above. No costs.

(P. Madhavan)
Member(J)

(R. Ramanujam)
Member(A)

19.06.2019

SKSI