
(2024) 07 CAT CK 0026

In the Central Administrative Tribunal

Case No : Miscellaneous Application 566, 573 Of 2024 In Original Application 346 Of 2024, Miscellaneous Application 567, 571 Of 2024 In Original Application 347 Of 2024, Miscellaneous Application 568, 572 Of 2024 In Original Application 348 Of 2024

Union Of India, Represented By The General Manager,
Southern Railway, Headquarters Office, Park Town P.O.,
Chennai - 600003 & Ors

APPELLANT

Vs

Subin Chakravarthy, S/O Chakran N & Ors.

RESPONDENT

Date of Decision : 17-07-2024

Acts Referred:

Citation : (2024) 07 CAT CK 0026

Hon'ble Judges : K. Haripal, Member (J)

Bench : Single Bench

Advocate : O.M. Shalina, T.C. Govindaswamy

Final Decision : Dismissed/ Allowed

Judgement

K. Haripal, Member J

1. Since common questions arise, all these MAs were heard together and are disposed of by this common order.

2. The applicants in these OAs are Loco Pilots in Ernakulam Junction in Southern Railway. They are aggrieved by Annexure A-1 order of transfer dated 25.06.2024 whereunder all of them stand transferred in their respective capacities to Villipuram Junction of Thiruchirappalli Division. The transfers are attacked on common grounds that it is issued by incompetent officer, vindictive in nature, issued arbitrarily in malafide exercise of power. All of them had started official career in other Divisions and came to Trivandrum Division by inter-division transfers, foregoing past seniority. According to them, Loco Pilots are being engaged by the respondents incessantly, without giving them proper rest, denying them leave and also medical facilities. That prompted the All India Loco Running Staff Association to make a video depicting the sad plight of Loco Pilots.

The applicants had played certain roles in the video; according to them, it was intended for private circulation, however someone without their connivance, uploaded it in social media, which irritated the respondents in picking them for transfer to an inconvenience station, which causes them considerable heart burn. They say that such transfers are being made vindictively, in malafide and arbitrary exercise of power. They moved this Tribunal seeking to quash Annexure A-1 and to direct the respondents to allow them to continue in Ernakulam Junction. They also sought to stay the operation of Annexure A-1 pending decision of the OAs.

3. All these OAs had come up for admission in the afternoon on 26.06.2024. Then Smt. O.M. Shalina, learned SCGSC took notice for the respondents and opposed grant of any interim relief. Referring to a communication dated 25.06.2024 issued by the Crew Controller, she submitted that all the applicants were already relieved from the respective posts. Sri. T.C. Govindaswamy, learned counsel for the applicants disputed the contention. Referring to clause 233 of Indian Railway Establishment Code, IREC for short, he pointed out that they cannot be relieved in their absentia, that all the applicants were physically present before Court, at the time of hearing the counsel

4. In other words, the attempt of the learned Standing Counsel was to make it out that any interim prayer for staying the operation of the transfer order had become redundant. In the circumstances, the Tribunal directed the parties to maintain status quo and the cases were adjourned to 03.07.2024 for filing reply.

5. MA Nos. 566/2024, 567/2024 and 568/2024 were moved by the respondents on 02.07.2024 seeking to vacate the order of status quo. The respondents also filed their objections against the interim relief. On the other hand, MA Nos. 573/2024, 577/2024 and 572/2024 were moved by the original applicants in OA No.346/2024, 347/2024 and 348/2024 respectively seeking directions to the respondents to allow them to work in Ernakulam Junction.

6. The respondents have interalia contended, with reference to Annexure R1(B) that the applicants have already been relieved. Referring to clause 233 of IREC it was submitted that it is not applicable to a Loco Pilot who is operator of a locomotive, who does not hold any office charge. According to them, while a Loco Pilot is transferred since he does not hold any office, there is no question of making over charge of an office, as contemplated in clause 233. Moreover, from 2020 onwards HRMS, Human Resource Management System, is in vogue in the Indian Railways and digital mode of communication is in practice which ensures instant transfer of office orders to all stakeholders. So according to the respondents, the relieving orders were instantly communicated to the applicants and all other stake holders so that the applicants cannot feign ignorant about the developments. Moreover, the applicants had caused Lawyer Notice misinterpreting the order of the Tribunal, with an attempt to frustrate the proceedings.

7. The other set of MAs, MA Nos.573/24, 577/2024, and 572/2024 were filed by the original applicants immediately on the next day alleging that despite the interim order passed by this Tribunal, the respondents failed to accept the copy of the orders; they assert that they have not been relieved from the respective duties. Despite the interim order, the respondents are not allowing them to discharge duties and therefore, they pray for directing the respondents to allow them to continue in Ernakulam Junction pending disposal of the OAs.

8. I heard the learned counsel on both sides at great length. Respective contentions were reiterated.

9. The impugned order transferring all the applicants from Trivandrum Division to Thiruchirappalli Division was issued on 25.06.2024. It is asserted that, immediately after conveying the order, all of them were relieved from Ernakulam Junction and then from Trivandrum Division on 26.06.2024. When a disputed question was raised as to whether they were actually relieved, this Tribunal was inclined to pass an order directing them to maintain status quo. The stand of the parties on the question is mutually exclusive.

10. 'Status Quo' refers to a current status of affairs or situation, which is often sought to be preserved or maintained until a dispute is resolved. So this Tribunal is called upon to consider, atleast for the present purpose, as to what was the position of the parties at the time when the order was issued.

11. After hearing counsel on both sides, I am not inclined to uphold the argument that the applicants were relieved immediately after issuing the orders. In this connection, atleast for the present purpose, the interpretation made by the respondents with regard to the connotation of 'charge of an office' in clause 233 of IREC cannot be accepted. The argument that in order to attract the clause there must be an office, that the Loco Pilot does not have such an office, appears a too narrow interpretation.

12. Secondly, even going by Annexure A-1, shorn of other details, it needs to be noted that the transferees are required 'to handover all the material pertaining to the Division which were entrusted to them in the course of their work to their immediate Supervisor.' Similarly, condition no. 5 states about some formalities to be completed as shown below:

"(i) The relieving memorandum should have the photograph of the employee pasted on it duly attested in a manner that the signature of the employee and the rubber stamp below that appear partially on the photograph and partially on the paper outside the photograph.

(ii) Relieving memorandum should have the signature of the transferred employee and his thumb impression both of which, should be attested by the officer signing the memorandum/order with his name and designation appearing below the signature."

They are also required to carry necessary identification slips with attested

photograph & LTIs etc.

13. It does not stand to reason as to how these formalities could be done without making a one-to-one meeting between the relieved and relieving officers or his official superior or even without the physical presence of the transferred officer. That means Annexure A-1 itself militates against the theory of the respondents that the applicants were relieved by mere issuing an order to that effect from a distant office.

14. There is also substance in the arguments of the learned counsel for the applicants, referring to Annexure A-12 that Loco Pilots are required to handover the equipments, enlisted therein, before getting relieved. This has to be read along with condition No.3 in Annexure A-1.

15. This Tribunal is also unable to comprehend the pace in which applicants were tried to be eased out from Trivandrum Division. For the present purpose, I do not wish to go into such aspects. I am convinced that such employees cannot be relieved merely through 'papers' without following the necessary formalities. That means, it is imminently clear that they were not relieved at the time when the interim order was passed.

16. I have not gone into the other contentions, regarding competency, legality and correctness of the order etc. But it is clear that at the time when the interim order was passed, they were not relieved in the real meaning of the term. That means they should be engaged as if the order has not taken effect.

17. Resultantly, MA Nos.566/2024, 567/2024 and 568/2024 are dismissed. As a necessary corollary, MA Nos. 573/2024, 571/2024 and 572/2024 are allowed.

18. For filing reply, adjourned to 13.08.2024.

(Dated this the 17th day of July, 2024)