* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE M.GANGA RAO

+ Writ Petition Nos.31544, 31548, 31549, 31551, 31565, 31566, 31567, 31569, 31575, 31577, 31579, 31581, 31583, 31585, 31587, 31595, 31597, 31609, 31610, 31616, 31618, 31640, 31647, 31676 and 32035 of 2016

% 31-10-2017

1. Union of India, Rep. by the General Manager,
South Central Railway, Rail Nilayam, Secunderabad

2. The General Manager (Personnel),
South Central Railway, Rail Nilayam, Secunderabad

3. The General Manager, North Western Railway,
Jaipur, Rajasthan

4. The Divisional Railway Manager (Personnel),
South Central Railway, Guntur District

... Petitioners/Respondents

Vs.

$ 1. Murari Lal Meena, S/o. Moharpal Meena, Aged 41 years,
Occ: Station Superintendent, Vishnupuram Railway Station,
Guntur Division, Guntur District; and others

... Respondents/Applicants

2. The Central Administrative Tribunal, Rep. by its Registrar,
Hyderabad Bench, Hyderabad

... Respondent

! Counsel for the Petitioners: Mr. L.Ravi Chander,
Senior Counsel,
representing Mr. P.Bhaskar

Counsel for Respondent No.1: Mr. G.Vidya Sagar,
Senior Counsel,
representing Mr. K.Siva Reddy

< Gist:

> Head Note:

? Cases referred:
Nil.

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Common Order: (per V.Ramasubramanian, J.)

The Railway Administration has come up with the present batch of writ petitions challenging a common order passed by the Central Administrative Tribunal, Hyderabad Bench, Hyderabad, allowing the applications filed by the contesting respondents in these writ petitions.

2. Heard Mr. L.Ravi Chander, learned Senior Counsel appearing for the Railway Administration and Mr. G.Vidya Sagar, learned Senior Counsel appearing for the contesting respondents in all the writ petitions.

3. The contesting respondents in these writ petitions were employed either as Station Masters or Station Superintendents or Assistant Station Masters. They filed individual applications before the Central Administrative Tribunal, complaining that though their requests for transfer to other Railway Zones had long been accepted, the orders of transfer were not issued for years together. Therefore, they sought appropriate directions in the original applications filed by them before the Tribunal.

4. The Railway Administration pleaded that due to a large number of vacancies, the Administration was not able

to transfer the contesting respondents herein. In other words, the Railway Administration was not opposed in principle, to the request for transfer. On the other hand, the Administration accepted the requests for Zonal transfers and also passed orders.

5. In such a situation, the Tribunal took note of a Serial Circular No.175/2005 issued by the Railway Board, which mandates a time-bound programme to be drawn up. The Circular reads as follows:

> "**SERIAL CIRCULAR NO.175/2005**
> No.P(R)676/II Date: 02-11-2005
>
> Copy of Board's letter No.E[NG]I-2005/TR/22 dated 06-10-05 is published for information, guidance and necessary action
>
> Copy of Board's letter No.E[NG]I-2005/TR/22 dated 06-10-05 (RBE No.170/05)
>
> Sub: Inter Zonal request transfers on bottom seniority.
>
> In terms of extant procedure request transfer from one Railway/Division/Unit to another Railway/Division/ Unit are considered in recruitment grades on bottom seniority subject to the condition that the employee seeking transfer fulfills the condition of qualification for recruitment to the posts in the grade to which transfer is sought.
>
> 2. It has been brought to the notice of this Ministry that inter zonal request transfers are being withheld on account of existence of vacancies. Since request by Railway servants for transfer on bottom seniority are made on grounds of special cases of hardship, it has been decided that requests for inter zonal transfers may not be withheld on account of existence of vacancies. If, however, request for transfer are withheld in the exigency of service on account of existence of vacancies, a time bound programme should be chalked out to fill up the vacancies by direct recruitment or promotion, as the case may be."

6. In the light of the said Circular and in the light of the failure of the Railway Administration to draw up a time-bound programme, the Tribunal allowed the applications filed

by the respondents, with a direction to the Administration to relieve the original applications in a phased manner within a period of six months from the date of receipt of a copy of the order. Aggrieved by the said order, the Administration has come up with the above writ petitions.

7. The grievance of the Railway Administration is that there are several roadblocks in the matter of filling up of all vacancies and that therefore if the respondents are relieved, without substitutes being posted in their places, the safety and security of the passengers and the trains may get jeopardised. The contention of the learned Senior Counsel for the Railway Administration is that no one can seek a Zonal transfer as a matter of right and that therefore the respondents may have to wait for their turn.

8. We have carefully considered the above submissions. As seen from the Serial Circular issued way back in the year 2005, the employees are entitled to make requests for transfer from one Zone to another. Such transfers may be accepted or may not be accepted. But once these requests are accepted, the employees are to take the bottom most seniority in the Zone to which they are transferred.

9. In the cases on hand, it is not the case of the Administration that the requests of the respondents for Zonal transfer were liable to be rejected. Their requests were already accepted. The respondents did not go to the Tribunal seeking a positive *mandamus* directing the Railway Administration to

transfer them from one Zone to another. If they were seeking a transfer through Court order, the Administration may be entitled to put Rule 226 of the Indian Railway Establishment Code.

10. But once their requests for Zonal transfers have been accepted, the same cannot be kept in cold storage. If we have a look at the timeline of events, it could seen that by the Circular dated 02-11-2005, the Administration was directed to draw a time-bound programme. Exactly a period of 12 years has now passed from the date of the said Circular. No time-bound programme has been chalked out by the Administration. The Circular also mandates that existence of vacancies need not deter the implementation of the orders of transfer. Therefore, the Tribunal was right in allowing the applications of the contesting respondents.

11. It is interesting to note that the requests of the respondents for Zonal transfers were accepted way back in the year 2012 and 2013. Now a period of 4 to 5 years has passed. As and when the respondents go and join in the respective Zones, they have to take the bottom most seniority. Therefore, any further delay on the part of the Administration, will only weaken the morale of the persons, as it may dampen the prospects of their further promotions.

12. It is not the case of the Administration that no recruitment ever took place after 2012-13 up to this date.

Their only case is that adequate number of persons could not be selected.

13. Therefore, in such circumstances, the blame, if at all there is any, may perhaps lie on the part of the Railway Recruitment Board and not upon the individual employees. Therefore, the writ petitions are dismissed. However, the Administration is given time up to 28th February, 2018 to relieve the respondents to enable them to join in their transferred places. To facilitate these applicants, the Railway Recruitment Board is directed to complete the process of recruitment by 31st January, 2018. The miscellaneous petitions, if any, pending in these writ petitions shall stand closed. No costs.

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V.RAMASUBRAMANIAN, J.

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M.GANGA RAO, J.

31st October, 2017.
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(per VRS, J.)

HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
सत्यमेव जयते

31st October, 2017.
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