

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

&

THE HONOURABLE MR. JUSTICE VIJU ABRAHAM

MONDAY, THE 3RD DAY OF JANUARY 2022 / 13TH POUSHA, 1943

OP (CAT) NO. 91 OF 2021

AGAINST OA.NO.223/2021 OF THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

PETITIONER/APPLICANT IN THE O.A.:

VIJITH A.N., AGED 38 YEARS,
S/O GOVINDAN, STAFF NO J/T 5015, PF NO 15551201240,
NOW WORKING AS STATION MASTER, KANNAPURAM, SOUTHERN
RAILWAY, PERMANENTLY RESIDING AT NIDUVOTE HOUSE, PO
MAVILAYI, KANNUR DISTRICT, PIN-670 622.

MOB:9744317090

BY ADVS. M/S.K.MOHANAKANNAN &
H.PRAVEEN (KOTTARAKARA)

RESPONDENTS/RESPONDENTS:

- 1 THE GENERAL MANAGER, SOUTHERN RAILWAYS,
PARK TOWN, CHENNAI-600 002.
- 2 THE DIVISIONAL RAILWAY MANAGER,
DRM OFFICE COMPLEX, SOUTHERN RAILWAY, PALAKKAD
DIVISION, PALAKKAD-678 002.
- 3 THE SENIOR DIVISIONAL OPERATING MANAGER,
DRM OFFICE COMPLEX, SOUTHERN RAILWAY, PALAKKAD
DIVISION, OLAVAKKOD, PALAKKAD-678 002.
- 4 THE SENIOR DIVISIONAL PERSONAL OFFICER,
DRM OFFICE COMPLEX, SOUTHERN RAILWAY, PALAKKAD
DIVISION, OLAVAKKOD, PALAKKAD-678 002.
- 5 STATION SUPERINTENDENT,
SOUTHERN RAILWAY, KANNAPURAM, KANNUR-670 301.

BY SRI.B.RAJESH, SC, RAILWAYS

THIS OP (CAT) HAVING COME UP FOR ADMISSION ON 03.01.2022,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ALEXANDER THOMAS & VIJU ABRAHAM, JJ.

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OP(CAT) No. 91 of 2021

[arising out of O.A. No.223/2021 on the file of the CAT, Ernakulam Bench]

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Dated this the 3rd day of January, 2022

J U D G M E N T

ALEXANDER THOMAS, J.

The petitioner herein has filed the instant Ext.P-1 original application O.A.No.223/2021 before the Central Administrative Tribunal, Ernakulam Bench, with the following prayers:

- a) *To call for the records leading to the issuance of Annexure.A18, A20 and A21 order passed by the Respondents 3 and 4 and to quash Annexure.A18 in so far as it directs a posting as Section Controller, Control Office, Palakkad and to quash Annexure.A.20 and A21;*
- b) *To declare that Annexure.A.18 order issued by the 3rd Respondent is illegal, arbitrary and unreasonable.*
- c) *To issue a direction to the Respondents to absorb and post the Applicant in a commercial office at Kannur area considering his medical de-categorised and poor health condition.*
- d) *To grant such other relief as this Hon'ble Tribunal may deem fit to grant in the interest of justice."*

2. The interim prayer made out in Ext.P-1 O.A. is as follows:

"The applicant prays that this Hon'ble Tribunal may be pleased to stay the operation and implementation of Annexure.A 18, A20 and A21, till the disposal of the above O.A pending disposal of the above Original Application."

3. The prayers in the instant original petition filed by the above original applicant are as follows:

- “a) To direct the Respondents to appoint the Petitioner to a suitable post as a medically de-categorized employee as directed in Annexure.A17 within a time frame to be fixed by this Hon'ble Court and orders may be passed;*
- b) To direct the CAT, Ernakulam to hear and dispose of OA 180/223/2021 and the proceedings pursuant to Ann.A33 may be deferred until the OA is finally disposed of;*
- c) To grant such other relief as this Hon'ble Court deem fit to grant in the interest of justice.”*

4. Heard Sri.K.Mohanakannan, learned counsel appearing for the petitioner in the O.P./applicant in the O.A. and Sri.B.Rajesh, learned Standing Counsel for the Railways appearing for the respondents in the O.P./respondents in the O.A.

5. From the submissions of both sides it appears that even though this Court has passed Anx.A-24 judgment dated 22.7.2021 in the OP(CAT) No.34/2021 (arising out of the instant O.A.), the Tribunal has not passed orders either on the interim prayer made in the O.A., or has not rendered final verdict in the main matter in the O.A. We are also told that the respondent Railways have already filed their reply statement in the instant O.A. as per Ext.P-6 dated 22.10.2021.

6. Accordingly, taking note of these aspects and more particularly, those aspects borne out from Anx.A-24 judgment passed by this Court on the previous occasion, the following directions and orders are passed:

1. The Tribunal will immediately take up the plea for interim

prayer made in the present O.A. and pass orders thereon, after hearing both sides without any further delay, at any rate within 3 weeks.

2. Further, it is also ordered that the Tribunal will ensure the final disposal of main matter in the instant O.A. No.223/2021 without much delay, preferably within an outer time limit of 3 months from the date of production of a copy of this judgment.
3. The Registry will forward a copy of this judgment to the Central Administrative Tribunal, Ernakulam Bench, who is dealing with O.A. No.223/2021 for necessary information, at the cost of the petitioner herein.

With these observations and directions, the above Original Petition (CAT) will stand disposed of.

Sd/-

ALEXANDER THOMAS, JUDGE

Sd/-

VIJU ABRAHAM, JUDGE

APPENDIX OF OP (CAT) .NO.91/2021

PETITIONER'S EXHIBITS

EXHIBIT P1	TRUE COPY OF THE OA 180/223/2021 OF THE HON'BLE TRIBUNAL WITH ANNEXURES
ANNEXURE 18	TRUE COPY OF THE ORDER BEARING NO 00/NO.J/T-20/2020 DATED 22.4.2021
ANNEXURE A20	TRUE COPY OF THE COMMUNICATION BEARING NO J/T-20/SNP/VAN DATED 5.5.2021
ANNEXURE A21	TRUE COPY OF THE COMMUNICATION BEARING NO J/T-20/SNP/VAN DATED 17.5.2021, ISSUED BY THE 4TH RESPONDENT
ANNEXURE A1	TRUE COPY OF CERTIFICATE OF RECOGNITION AWARD DURING THE YEAR 2016-17 ISSUED BY CHIEF OPERATIONS MANAGER, CHENNAI DATED 30.3.2017
ANNEXURE A2	TRUE COPY OF THE COMMUNICATION NO J/MD 84/V DATED 6.11.2019 ISSUED BY THE ADDITIONAL CMS/PGT DIVISIONAL OFFICE, MEDICAL BRANCH
ANNEXURE A3	TRUE COPY OF THE COMMUNICATION NO J/T-2/SNP DATED 4.2.2020 ISSUED BY THE 3RD RESPONDENT TO THE 4TH RESPONDENT
ANNEXURE A4	TRUE COPY OF THE ORDER NO J/T 20/SNP DATED 28.2.2020 ISSUED BY THE 3RD RESPONDENT
ANNEXURE A5	TRUE COPY OF THE REPRESENTATION DATED 19.7.2020 SUBMITTED BY THE APPLICANT BEFORE THE 4TH RESPONDENT
ANNEXURE A6	TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE APPLICANT BEFORE THE 4TH RESPONDENT DATED 12.8.2020
ANNEXURE A7	TRUE COPY OF THE OFFICE NOTE NO J/P 11/CON/SPL SUPY POSTS/VOL V DATED 7.9.2020 ISSUED BY THE 4TH RESPONDENT
ANNEXURE A8	TRUE COPY OF THE COMMUNICATION NO CAN/SS/9/20 DATED 9.9.2020 ISSUED BY THE STATION MANAGER, KANNUR
ANNEXURE A9	TRUE COPY OF THE ORDER NO J/T.15/2020 DATED

	8.9.2020 ISSUED BY THE 4TH RESPONDENT
ANNEXURE A10	TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE APPLICANT ON 9.9.2020 BEFORE THE 4TH RESPONDENT
ANNEXURE A11	TRUE COPY OF THE ORDER PASSED BY THIS HON'BLE TRIBUNAL IN OA NO 180/00435/2020 DATED 22.9.2020
ANNEXURE A12	TRUE COPY OF THE NO J/T20/KP1/VAN/1 DAD 7.10.2020 ISSUED BY THE 3RD RESPONDENT
ANNEXURE A13	TRUE COPY OF THE ORDER NO F(NG)11/2018/RR/1/40/PT ISSUED BY RAILWAY BOARD DATED 28.2.2019
ANNEXURE A14	TRUE COPY OF THE ORDER NO CAN/SS/9/20 ISSUED BY THE STATION MANAGER DATED 9.9.2020
ANNEXURE A15	TRUE COPY OF THE RELIEVING ORDER NO SS/KP1/DATED 8.10.2020 AFFIXED IN THE NOTICE BOARD OF KANNAPURAM STATION
ANNEXURE A16 (A)	TRUE COPY OF THE REQUEST FOR LEAVE SUBMITTED BY THE APPLICANT DATED 9.9.2020
ANNEXURES A16 (B)	TRUE COPY OF THE MEDICAL CERTIFICATE ISSUED BY DR. DHARAESH DAMODAR VACHALY DATED 9.9.2020
ANNEXURE A17	TRUE COPY OF THE JUDGMENT IN OA 180/00511/2021 DATED 23.3.2021
ANNEXURE A19	TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE APPLICANT BEFORE THE 4TH RESPONDENT ON 30.4.2021
EXHIBIT P2	TRUE COPY OF THE ORDER PASSED BY THE HON'BLE TRIBUNAL IN OA 180/232/2021 DATED 3.6.2021
EXHIBIT P3	TRUE COPY OF THE ORDER MINISTRY OF RAILWAYS DATED 11.7.2019
EXHIBIT P4	TRUE COPY OF THE APPLICATION FILED UNDER THE RIGHT TO INFORMATION ACT DATED 20.5.2021 WITH INFORMATION
EXHIBIT P5	TRUE COPY OF THE MA 180/522/2021 IN OA 223/21 WITH ANNEXURES IS FILED BY THE PETITIONER BEFORE THE TRIBUNAL

ANNEXURE A22	TRUE COPY OF THE INTERIM ORDER DATED 8.7.2021 IN OP(CAT)34/2021 OF HON'BLE HIGH CORT OF KERALA
ANNEXURE A23	TRUE COPY OF THE ORDER DATED 22.7.2021 ISSUED BY THE RAILWAYS
ANNEXURE A24	TRUE COPY OF THE JUDGMENT DATED 22.7.2021 IN OP(CAT) 34/2021 OF HON'BL HIGH COURT OF KERALA
ANNEXURE A25	TRUE COPY OF THE INFORMATION GIVEN UNDER THE RIGHT TO INFORMATION ACT DATED 13.6.2021
ANNEXURE A26	TRUE COPY OF THE ORDER NK J/T-20/SNP/VAN DATED 16.8.2021 PASSED BY THE 3RD RESPONDENT
EXHIBIT P6	TRUE COPY OF THE REPLY STATEMENT FILED BY RESPONDENTS DATED 22.10.2021
ANNEXURE R1	TRUE COPY OF THE PARA 6.1 OF MASTER CIRCULAR NO 25
ANNEXURE R2	TRUE COPY OF THE PARA 5.8 OF MASTER CIRCULAR NO 25
ANNEXURE R3	TRUE COPY OF THE OFFICE ORDER NO J/T.29/2021 DATED 20.7.2021
EXHIBIT P7	TRUE COPY OF THE REJOINDER FILED BY THE PETITIONER IN OA 223/21 WITH ANNEXURE A28 TO A32 DATED 24.11.2021
ANNEXURE A28	TRUE COPY OF THE ORDER ISSUED BY THE MINISTER OF RAILWAY DATED 28.2.2019 WITH COMMUNICATION DATED 5.4.2021
ANNEXURE A29	TRUE COPY OF THE OFFICE ORDER NO CMML DATED 19.7.2019 OF THE SOUTHERN RAILWAY (ASSISTANT PERSONAL OFFICER/ ENGINEERING)
ANNEXURE A30	TRUE COPY OF THE ORDER DATED 11.7.2019 OF THE RAILWAYS
ANNEXURE A31	TRUE COPY OF THE REPORT OF THE SENIOR CONSULTANT CARDIOLOGIST AND CARDIO VASCULAR INTERVENTIONALIST, DHANALAKSHMI HOSPITAL, KANNUR DATED 25.9.2019
ANNEXURE A32	TRUE COPY OF THE COMMUNICATION ISSUED BY THE SENIOR DIVISIONAL OPERATIONS MANAGER,

PALAKKAD DATED 25.10.2021

EXHIBIT P8	TRUE COPY OF THE MA 823/2021 IN OA NO 180/223/2021 BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM DATED 30.11.2021
ANNEXURE A33	TRUE COPY OF THE MEMO OF CHARGE VIDE REF NO J/T.227/21/VAN/5 DATED 22.11.2021
EXHIBIT P9	TRUE COPY OF THE REPLY TO THE MEMO OF CHARGES SUBMITTED BY THE PETITIONER DATED 8.12.2021