

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

WEDNESDAY, THE 1ST DAY OF JULY 2015/10TH ASHADHA, 1937

WA.No. 1369 of 2015 () IN WP(C).11727/2015

AGAINST THE JUDGMENT IN WP(C) 11727/2015 DATED 29-05-2015

APPELLANT/PETITIONER :-

M.P.BISMILLAH KHAN, AGED 33 YEARS
S/O. POOKOYA, TRAINED GRADUATE TEACHER (ARABIC)
GOVERNMENT SENIOR SECONDARY SCHOOL, MINICOY
PIN-682 559, UNION TERRITORY OF LAKSHADWEEP.

BY ADVS.SRI.P.K.IBRAHIM
SMT.K.P.AMBIKA
SMT.A.A.SHIBI
SMT.M.K.SAMYUKTHA

RESPONDENTS/RESPONDENTS :-

1. THE LAKSHADWEEP DISTRICT PANCHAYATH
DEPARTMENT OF EDUCATION, KAVARATTI
REPRESENTED BY ITS CHIEF EXECUTIVE ENGINEER
PIN-682 555.
2. THE DIRECTOR OF EDUCATION, DIRECTORATE OF EDUCATION
ADMINISTRATION OF THE UNION TERRITORY OF LAKSHADWEEP
KAVARATTI, PIN-682 555.
3. SHAMILA MUMTAZ C.G.
LANGUAGE TEACHER (ARABIC)
GOVT. SENIOR SECONDARY SCHOOL, MINICOY, PIN-682 559.

R2 BY ADV. SRI.S.RADHAKRISHNAN, SC, LAKSHADWEEP ADMN
R3 BY SRI.ESM.KABEER

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 01-07-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

jvt

**ASHOK BHUSHAN, C.J &
A.M. SHAFFIQUE, J.**

W.A. No.1369 of 2015

Dated this the 1st day of July 2015

J U D G M E N T

Shaffique, J.

The petitioner in W.P.(C) No.11727 of 2015 has filed this writ appeal challenging the judgment dated 29.5.2015. The petitioner challenged the transfer order issued in favour of the 3rd respondent. It is inter alia contended that as per the transfer norms, the person requesting for transfer should complete three years of service in a particular place of employment. The 3rd respondent recently joined the service and immediately she asked for transfer, which was allowed without taking into consideration the request made by the petitioner, who is senior to the 3rd respondent.

2. The learned Single Judge, after considering the factual situation involved in the case did not exercise discretion to set aside the transfer order in favour of the 3rd respondent. It is found that Ext.P6 order, which was impugned, was passed on the specific request of the 3rd respondent, pursuant to her application dated 24.2.2014, wherein, she had indicated that

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she had a baby of one year and it was under those circumstances, she wanted a transfer to her native place, Kalpeni. The 2nd respondent had denied the request of the petitioner for the said transfer. The learned Single Judge did not find any discrimination meted out against the petitioner. Therefore, Ext.P6 order was not interfered.

3. Impugning the above judgment of the learned Single Judge, the learned counsel for the appellant submits that the reason given in Ext.P6 order for transferring the 3rd respondent was not in accordance with the norms. But the fact remains that the petitioner was also not entitled to be transferred during the relevant time as he had not completed three years of service. As far as the 3rd respondent is concerned, she is a lady and having a baby and her request was to place her at Kalpeni, her native place. If the authority have taken a decision in favour of the 3rd respondent by exercising discretion on the basis of the request made by the 3rd respondent, though not in accordance with the norms, we do not think that this Court should interfere such decision making process. That apart, the

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learned Single Judge having found that there is no discrimination, we should not interfere in the matter in exercise of appellate jurisdiction.

Under such circumstances, we do not think it necessary to interfere with the transfer order in favour of the 3rd respondent. Accordingly, the writ appeal is dismissed.

**Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE**

**Sd/-
A.M. SHAFFIQUE
JUDGE**

//TRUE COPY//

P.A. TO JUDGE

Jvt