

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/30TH MAGHA, 1936

WP(C).No. 10893 of 2013 (J)

PETITIONER(S) :

G.MURUKADAS,
S/O.LATE K.GOPALAN, AGED 39 YEARS, WORKING AS WATCHMAN,
KERALA STATE BACKWARD CLASSES DEVELOPMENT CORPORATION
LIMITED,
A GOVERNMENT OF KERALA UNDERTAKING, METTUPALAYAM,
PALAKKAD-678 001 AND RESIDING AT 26/502,
ERUMAKKARA STREET, CITY P.O., PALAKKAD-14.

BY ADV. SRI.N.UNNIKRISHNAN.

RESPONDENT(S) :

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1. KERALA STATE BACKWARD CLASSES DEVELOPMENT CORPORATION LIMITED, (A GOVERNMENT OF KERALA UNDERTAKING), REGISTERED OFFICE, T.C. 27/588 (7) (8), 'SENTINEL', SECOND FLOOR, PATTOOR, VANCHIYOOR, THIRUVANANTHAPURAM-695 035, REPRESENTED BY THE MANAGING DIRECTOR.
 2. THE DISTRICT MANAGER, KERALA STATE BACKWARD CLASSES CORPORATION LIMITED, METTUPALAYAM STREET, PALAKKAD-678 001.
 3. STATE OF KERALA REPRESENTED BY THE SECRETARY TO THE GOVERNMENT, SC/ST DEVELOPMENT (F) DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.

R1,R2 BY SRI.JAYAPRADEEP V, SC, KSBCDC &
BY GOVERNMENT PLEADER SRI. NOUSHAD THOTTATHIL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 19-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXHIBIT P1- A TRUE COPY OF THE ORDER NO. G.O.(RT) 125/2001 SCSTDD
DATED 14-03-2001 ALONG WITH ANNEXURE-1 THERIEN ISSUED
BY THE FIRST RESPONDENT.

EXHIBIT P2- A TRUE COPY OF PAGE NO. 3 OF SECONDARY SCHOOL LEAVING
CERTIFICATE OF THE PETITIONER.

EXHIBIT P3- A TRUE COPY OF THE LETTER NO. 2462/E1-2009/KSBCDC
DATED 21-02-2013.

EXHIBIT P4- A TRUE COPY OF THE ORDER NO. 998/E1 2013/KSBCDC DATED
01-04-2013.

EXHIBIT P5- A TRUE COPY OF TRANSFER GUIDELINES.

EXHIBIT P6- A TRUE COPY OF PRESCRIPTION DATED 08-04-2013 ISSUED
TO MOTHER OF THE PETITIONER BY DR. N.M.ARUN.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.V.RAMAKRISHNA PILLAI, J

WPC No.10893 of 2013

Dated this the 19th day of February, 2015

JUDGMENT

Ext.P4 transfer order, by which the petitioner was transferred from the present station is under challenge in this writ petition.

2. The petitioner is a regular watchman working under the first respondent from 1997 and he was regularised in 2001 as evidenced in Ext.P1. As evidenced in Ext.P2, he is a member of the Scheduled Caste Community. As per clause - 10 of Ext.P5 transfer guidelines, public transfer is not applicable to last grade servants and so far as possible they should be posted at their Home District/opted District. Clause 17 herein provides that members of scheduled castes/scheduled tribes and other categories provided therein should be given special preference in their transfer. Though wage revision was issued as back as 2009, it is not so far implemented. The petitioner is getting pre-revised pay. He is the only earning member of his family consisting of

his mother suffering from chronic diabetics for the last 16 years, unemployed wife and a child. The first respondent is not providing any residential accommodation at Ernakulam; it is submitted. It is, therefore, not at all possible for the petitioner to have two establishments at time, especially, because of the fact that the cost of living at Ernakulam is on a higher side. The vacancy at Ernakulam was existing from 2012. It is understood that one Sini, now working at Palakkad who was transferred from Ernakulam has already applied for re-transfer to Ernakulam in the General Transfer being effected in May, 2013. It is with this background, the petitioner has come up before this Court.

3. The respondent has filed a counter affidavit contending that the petitioner was transferred to District Office, Ernakulam on administrative exigencies. According to them, there are two Watchmen working in the District Office, Palakkad whereas in the District Office Ernakulam, there is only one post of Watchman is lying vacant. The respondent Corporation also justified the

transfer of the petitioner for the sake of administrative convenience.

4. Arguments have been heard.

5. The only reason stated for transfer of the petitioner from Palakkad to Ernakulam is administrative exigencies. The learned counsel for the petitioner points out that the factual contentions taken by the petitioner are not denied by the respondents and there is nothing to show any administrative exigencies in Ext.P5 impugned order. It was pointed out that the other watchman was transferred from Ernakulam to Palakkad in 2012 and the said vacancy was existing for the last one year. The learned counsel for the petitioner would point out that the petitioner being an SC candidate and being a class IV employee, he may be exempted from transfer as per Ext.P5 transfer norms. I see valid force in the said submission. Ext.P5 is passed on the basis of the policy decision of the Government. The petitioner is entitled to exemption from transfer as per Ext.P5. It is crucial to note that the person who was transferred from Ernakulam to

Palakkad in the last year has already applied for re-transfer and waiting for orders. The said employee belongs to Ernakulam District. If at all there is an administrative exigency, the other employees could have been granted a posting at Ernakulam.

6. On a consideration of the entire materials now placed on record, this Court is of the view that the petitioner is entitled to succeed.

In the result, this writ petition is allowed. Ext.P4 is quashed. The first respondent is directed to retain the petitioner at Palakkad.

**Sd/- A.V.RAMAKRISHNA PILLAI
JUDGE**

css/

true copy

P.S.TO JUDGE