

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

WP(C).No. 14642 of 2015 (E)

PETITIONER(S)/PETITIONER:

**ALICE ANTONY A., AGED 47 YEARS,
LPSA, ALPS, KARAPPADAM
POST PAYYANADAM (UNDER ORDERS OF TRANSFER STLPS
UPPUKULAM).**

BY ADV. SMT.I.SHEELA DEVI

RESPONDENT(S)/RESPONDENTS:

- 1. THE DIRECTOR OF PUBLIC INSTRUCTION
THIRUVANANTHAPURAM-01.**
- 2. THE CORPORATE MANAGER
JAI CHRISTO C.M.C., EDUCATIONAL AGENCY
PALAKKAD-678004.**

**R2 BY ADV.SRI.V.M.KURIAN
R BY GOVERNMENT PLEADER SMT.M.J.RAJASREE**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
13-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1- A TRUE COPY OF THE ORDER NO. 30/2015-16 DATED 28-04-2015.

**EXHIBIT P2- A TRUE COPY OF THE REPRESENTATION DATED 11-05-2015
SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.**

**EXHIBIT P3- A TRUE COPY OF THE JUDGMENT IN O.P.NO. 13278/2002 OF THIS
HON'BLE COURT.**

**EXHIBIT P4- A TRUE COPY OF THE ORDER NO. G1/72601/2000/K.DIS/DPL. DATED
18-05-2001 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.**

**EXHIBIT P5- A TRUE COPY OF THE ORDER G.O.(P)NO. 13/2000 P&ARD DATED 27-
4-2000 ISSUED BY THE DEPARTMENT OF PERSONNEL AND ADMINISTRATION.**

**EXHIBIT P6- TRUE COPY OF THE MEDICAL CERTIFICATE ISSUED BY THE AL
SHIF HOSPITAL PVT. LTD., AND THE SENIOR MEDICAL OFFICER, GOVERNMENT
AYURVEDA DISPENSARY, ARIYUR.**

**EXHIBIT P7- TRUE COPY OF THE MEDICAL CERTIFICATE ISSUED BY THE AL
SHIFA HOSPITAL PVT, LTD. AND THE SENIOR MEDICAL OFFICER,
GOVERNMENT AYURVEDA DISPENSARY, ARIYUR.**

RESPONDENT(S)' EXHIBITS:

**EXT.R2(A): COPY OF THE REPLY DATED 25.5.2015 SENT BY THE 2ND
RESPONDENT TO THE PETITIONER.**

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.14642 OF 2015 (E)

Dated this the 13th day of July, 2015

J U D G M E N T

The petitioner is an LPSA working at ALP School, Karappadam, under the management of the 2nd respondent. In the writ petition, the petitioner is aggrieved by Ext.P1 order of transfer dated 28.4.2015, whereby, she has been transferred to Uppukulam. It is the case of the petitioner that by Ext.P1 order of transfer, she has been transferred to a hilly area, and inasmuch as she is a chronic bronchial asthma patient, the said transfer would visit her with major inconvenience inasmuch as her health condition is not such as would enable her to work at the transferred station. In the writ petition, the petitioner refers to Ext.P3 judgment, where, on an earlier occasion, when she was transferred to a hilly area, the said transfer was interdicted by this Court. She also refers to Ext.P4 order dated 18.5.2001, where the 1st respondent considered a similar transfer of the petitioner to a hilly area, and interdicted the said transfer. The petitioner would also, in particular, point to Ext.P5 guidelines dated 10.9.2004, which

contemplate that women employees ought not to be posted to hilly areas. Thus, the crux of the challenge against Ext.P1 order is that the place to which the petitioner stands transferred is a hilly area, and the petitioner, being an asthma patient, would not be able to discharge her duties at the said station.

2. A counter affidavit has been filed by the 2nd respondent, wherein, the stand taken is that the petitioner stays at Mannarkkad and travels to Karappadam by bus. It is vehemently contended that Uppukulam is not a hilly area and there is no hill area allowance to employees who are posted in Uppukulam. Reference is also made in the counter affidavit to Ext.R2(a) reply, to the representation preferred by the petitioner, wherein, the grievance of the petitioner in Ext.P2 representation has been considered and each of the points raised by the petitioner dealt with. In substance, it is stated that the petitioner has been posted at Karappadam for over 12 years and hence she cannot now insist on a continuation at Karappadam station.

3. I have heard the learned counsel for the petitioner, the learned Standing counsel for the 2nd respondent as also the learned

Government Pleader for the official respondents.

On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that this is a case where the petitioner has been transferred from Karappadam to Uppukulam. The sole contention in the writ petition against the transfer order is that the transfer has been effected to a high altitude station and the medical condition of the petitioner does not permit her to work at the said station. In the counter affidavit filed by the respondent, as also in Ext.R2(a) reply to the representation preferred by the petitioner, it is the specific stand of the respondent that the Station to which the petitioner is transferred is not a hilly area and therefore, the problems that are apprehended by the petitioner with regard to her medical condition will not actually materialise. Apart from that, it is also pointed out that the petitioner has been continuing at Karappadam for the last 12 years. Under the said circumstances, I am of the view that Ext.P1 order of transfer, to the extent it transfers the petitioner to Uppukulam, cannot be said to be vitiated either on the ground of mala fides or on the ground of violation of any statutory guidelines governing transfer. Resultantly, the writ petition, in its

challenge against Ext.P1 order of the transfer fails, and is accordingly dismissed.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp