

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 10TH DAY OF JUNE 2015/20TH JYAISHTA, 1937

WP(C).No. 17275 of 2015 (V)

PETITIONERS :

**ANIL KUMAR T.K., SENIOR CLERK (GR.), AGED 54 YEARS,
SPICES BOARD, PALARIVATTOM, KOCHI - PIN - 682025.**

**BY ADVS.SRI.JOHNSON GOMEZ
JOSE S.**

RESPONDENTS :

- 1. THE SECRETARY, SPICES BOARD,
SUGANDHA BHAVAN, N.H. BY PASS, P.B. NO. 2277,
PALARIVATTOM P.O., COCHIN - PIN- 682025.**
- 2. THE CHAIRMAN, SPICES BOARD, SUGANDHA BHAVAN,
N.H. BY PASS, P.B. NO. 2277, PALARIVATTOM P.O.,
COCHIN , PIN - 682025.**
- 3. UNION OF INDIA, REPRESENTED BY THE MINISTRY OF COMMERCE,
EW DELHI 110001, REPRESENTED BY ITS SECRETARY TO GOVERNMENT**

**R1 & R2 BY ADV. SMT.K.RADHAMANI AMMA, SC,
BY ADV. SRI.ANTONY MUKKATH, SC,
R3 BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

WP(C).No. 17275 of 2015 (V)

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE MEMORANDUM NO. ADM/TRA/01/14 DT 8/6/2015 ISSUED BY THE R1.**
- P2: COPY OF OFFICE MEMORANDUM, F. NO. 28034/9/2009-ESTT. (A) DT 30/9/2009 ISSUED BY THE DEPARTMENT OF PERSONNEL AND TRAINING, MINISTRY OF PERSONNEL PUBLIC GRIEVANCES AND PENSION.**
- P3: COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE SECOND RESPONDENT.**

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 17275 of 2015

Dated this the 10th day of June, 2015

JUDGMENT

The petitioner, who is a Senior Clerk in the Head Office of the Spices Board at Kochi, is aggrieved by Ext.P1 order of transfer, whereby he has been posted to the regional office at Una in Himachal Pradesh. It is the case of the petitioner in the writ petition that the said transfer is against Ext.P2 guidelines which govern the transfer of the employees of the organization. In particular, it is pointed out that there are other senior clerks in the Head Office at Kochi, who have been stationed at Kochi for longer number of years than the petitioner and hence, going by Ext.P2 guidelines, they should be considered for transfer first, before transferring the petitioner. It is also pointed out that the petitioner's wife is serving in the Indian Navy and is posted at Naval Base, Kochi and going by the guidelines, if the spouse of an employee is also working in another central service, then as far as possible the employer is obliged to grant the employee a posting at a station, that is either the same as or close to that of the spouse. It is also submitted that raising these contentions, the petitioner has preferred Ext.P3 representation before the 2nd respondent, and that as per the guidelines, whenever such a representation is preferred, the 2nd respondent is obliged to pass a speaking order stating the reasons for its decision based on the guidelines.

2. I have heard the learned counsel appearing for the petitioner and also the learned Standing Counsel appearing for the respondents.

On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find that inasmuch as the petitioner has already approached the 2nd respondent with Ext.P3 representation, stating his grievance against the transfer pursuant to Ext.P1 order, it may not be prudent for this Court to examine the legality of the transfer order without affording an opportunity to the 2nd respondent to consider the representation of the petitioner first. Thus, without pronouncing on the merits of the case of the petitioner, I dispose the writ petition, with a direction to the 2nd respondent to consider and pass orders on Ext.P3 representation before him, within a period of two weeks from today, after hearing the petitioner. I make it clear that till such time as orders are passed by the 2nd respondent as directed, and communicated to the petitioner, the operation of Ext.P1 order, insofar as it relates to the petitioner, shall be kept in abeyance.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE