

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 19TH DAY OF JUNE 2015/29TH JYAISHTA, 1937

WP(C).No. 18515 of 2015 (L)

PETITIONER(S):

**DIVYAMOL R.S., AGED 30 YEARS
ASSISTANT SUB INSPETOR (MINISTERIAL - 073260253)
PRESENTLY RESIDING AT QUARTER NO.A - 38
FACT TOWNSHIP, ELOOR, UDYOGAMANDAL, ERNAKULAM
KOCHI, PIN 683 501.**

**BY ADVS.SRI.V.A.MUHAMMED
SRI.M.SAJJAD**

RESPONDENT(S):

- 1. THE DIRECTOR GENERAL, CENTRAL INDUSTRIAL SECURITY FORCE
CISF HEAD QUARTERS, 13 CGO COMPLEX, LODHI ROAD
NEW DELHI 110 003.**
- 2. THE INSPECTOR GENERAL (SOUTH SECTOR)
CENTRAL INDUSTRIAL SECURITY FORCE, CHENNAI, PIN - 600 009.**
- 3. THE DEPUTY INSPECTOR GENERAL (SOUTH ZONE)
CENTRAL INDUSTRIAL SECURITY FORCE, BASANT NAGAR
CHENNAI 600 090.**
- 4. THE SENIOR COMMANDANT
CENTRAL INDUSTRIAL SECURITY FORCE, COCHIN PORT TRUST
COCHIN, 682 009.**
- 5. UNION OF INDIA
REPRESENTED BY THE SECRETARY TO GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS, NEW DELHI 110 003.**

R1-R5 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
19-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE NOTIFICATION ISSUED BY THE PRESIDENT'S SECRETARIAT DATED 21.07.1997.

EXT.P2: COPY OF THE ORDER ISSUED BY THE 4TH RESPONDENT DATED 17.06.2015.

EXT.P3: COPY OF THE OFFICE MEMORANDUM ISSUED BY THE GOVERNMENT OF INDIA, DATED 30.09.2009.

EXT.P4: COPY OF THE CERTIFICATE DATED 24.09.2014 ISSUED BY THE FERTILISERS AND CHEMICALS TRAVANCORE LIMITED TO THE HUSBAND OF THE PETITIONER.

EXT.P5: COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 17.06.2015.

EXT.P6: COPY OF THE RELIEVING ORDER ISSUED BY THE 4TH RESPONDENT DATED 17.06.2015.

EXT.P7: COPY OF THE OFFICE MEMORANDUM DATED 24.12.2014.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.18515 OF 2015 (L)

Dated this the 19th day of June, 2015

J U D G M E N T

The petitioner, who joined the services of the respondent Force in the year 2007, is aggrieved by Ext.P2 order of transfer, whereby she has been transferred to the unit at Hyderabad. The petitioner would rely on the clause in the transfer norms applicable to the respondent Force, which contemplates that in cases where one spouse belongs to a Central Service and the other belongs to a Public Sector Undertaking [PSU], and the request of the spouse in the PSU for retention in a post cannot be granted, then the spouse belonging to the Central Service may apply to the appropriate cadre controlling authority, and the said authority may post the said officer to the station, or if there is no post in that station, to the station nearest to the station where the spouse employed under the PSU is posted. In the instant case, the petitioner's husband is employed in FACT, which has units only in the State of Kerala. It is, therefore, the case of the petitioner that her transfer cannot be to a place outside Kerala going by the transfer norms. Learned Assistant Solicitor General of India

appearing on behalf of the respondents, however, would point out that if the petitioner relies on the said clause, then it will lead to an anomalous situation in that the petitioner can never be transferred outside Kerala, since the PSU in which the petitioner's spouse is working, has got units only in Kerala. The learned ASG would point out that, on a previous occasion, when the petitioner was sought to be transferred out of Kerala, she had placed reliance on the same clause and preferred a representation before the respondents, and on a consideration of the same, the respondents had decided to retain her in Kerala. It is submitted that the indulgence granted on a previous occasion cannot be extended for all times to come and, hence, the petitioner must necessarily accept the order of transfer transferring her to the Unit at Hyderabad.

2. I have heard the learned counsel for the petitioner as also the learned Assistant Solicitor General for the respondents.

On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I am of the view that in matters of transfer, this Court, in the absence of any manifest

arbitrariness or mala fides, in the decision of the transferring authority, must necessarily defer to the decision of the transferring authority. I note in this case, however, that the petitioner has preferred Ext.P5 representation before the 2nd respondent, highlighting her grievance. Under the said circumstances, without pronouncing on the merits of the transfer order, I relegate the petitioner to the remedy of pursuing Ext.P5 representation before the 2nd respondent. Accordingly, I dispose the writ petition with a direction to the 2nd respondent to consider and pass orders on Ext.P5 representation preferred by the petitioner, within a period of one week from the date of receipt of a copy of this judgment, after hearing the petitioner. I make it clear that till such time as orders are passed by the 2nd respondent on Ext.P5 representation, and communicated to the petitioner, Ext.P2 order of transfer, insofar as it relates to the petitioner, shall be kept in abeyance.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp