

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 29TH DAY OF JUNE 2015/8TH ASHADHA, 1937

WP(C).NO. 19238 OF 2015 (D)

PETITIONER(S) :

ANIL KUMAR T.K.
SENIOR CLIEK (GR.) SPICES BOARD, PALARIVATTOM, KOCHI
PIN 682025

BY ADVS.SRI.MKS.MENON
SRI.P.A.AUGUSTINE (AREEKATTEL)

RESPONDENT(S) :

1. THE SECRETARY
SPICES BOARD, SUGANDHA BHAVAN, NH BY PASS
PB.NO.2277, PALARIVATTOM PO, COCHIN
PIN 682025

2. THE CHAIRMAN
SPICES BOARD, SUGANDHA BHAVAN, NH BY PASS
PB.NO.2277, PALARIVATTOM PO, COCHIN
PIN 682025

3. MR. A.JAYATHILAK IAS
CHAIRMAN, SPICES BOARD, SUGANDHA BHAVAN
NH BY PASS, PB.NO.2277, PALARIVATTOM PO
COCHIN, PIN 682025

4. UNION OF INDIA
REPRESENTED BY THE MINISTRY OF COMMERCE
NEW DELHI 110001
REPRESENTED BY ITS SECRETARY TO GOVERNMENT

R1-R2 BY ADV. SMT.K.RADHAMANI AMMA, SC, SPICES BOARD
R1-R2 BY ADV. SRI.ANTONY MUKKATH, SC, SPICES BOARD
R4 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
29-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).NO. 19238 OF 2015 (D)

APPENDIX

PETITIONER(S) ' EXHIBITS

P1:TRUE COPY OF MEMORANDUM NO.ADM/TRA/14 DTD. 08.06.2015 ISSUED BY THE
1ST RESPONDENT

P2:TRUE COPY OF OFFICE MEMORANDUM F.NO.28034/9/2009 ESTT. (A) DATED
30.09.09 ISSUED BY THE DEPARTMENT OF PERSONNEL AND TRINING, MINISTRY OF
PERSONNEL, PUBLIC GRIEVANCES AND PENSION

P3:TRUE COPY OF REPRESENTATION DATED 09.06.2015 SUBMITTED BY THE
PETITIONER BEFORE THE 2ND RESPONDENT

P4:TRUE COPY OF THE JUDGMENT DTD. 10.06.2015 IN WPC.NO.17275/2015

P5:TRUE COPY OF THE ORDER DTD. 18.06.2015 PASSED BY THE 2ND RESPONDENT

P6:TRUE COPY OF RELIEVING ORDER DTD. 18.06.2015 ISSUED ON BEHALF OF THE
DIRECTOR (DEVELOPMENT)

RESPONDENT(S) ' EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.19238 of 2015

.....
Dated this the 29th day of June, 2015

J U D G M E N T

The challenge in the writ petition is against Ext.P1 order of transfer whereby the petitioner, who is a Senior Clerk under the respondent Board, has been transferred from the Head Office at Kochi to the Regional Office at Una in Himachal Pradesh. When the petitioner was served with Ext.P1 order of transfer, he had approached this Court through W.P.(C).No.17275 of 2015 challenging the said order, inter alia, on the ground that the said order was passed in violation of the transfer norms that were in force in the respondent Board. By Ext.P4 judgment dated 10.06.2015, this Court disposed the writ petition with a direction to the 2nd respondent to consider and pass orders on a representation preferred by the petitioner before him, within a period of two weeks, after hearing the petitioner. It was also made clear that till such time as orders were passed by the 2nd respondent and communicated to the petitioner, the operation of Ext.P1 order of transfer, insofar as it related to the petitioner would be kept in abeyance. The respondent Board thereafter, considered the representation, and by Ext.P5 order dated 18.06.2015, found that there was no case made out by the petitioner

for exempting him from the transfer that was already ordered. In the present writ petition, the petitioner challenges Ext.P5 order, inter alia, on the ground that, there is no specific reason stated therein for transferring the petitioner alone to the Regional office at Una in Himachal Pradesh. It is the contention of the petitioner that, as per the norms governing transfer, in all cases where the spouse of an employee is posted in the same station, then the cadre controlling authority should strive to post the employee in the question also in the same station as that of the spouse and, in case of any inability to do so, specific reasons have to be communicated to the employee. It is the case of the petitioner that, in his case, there is no specific reason stated in Ext.P5 as to why he cannot be retained at the Head Office in Kochi.

2. I have heard the learned counsel for the petitioner and the learned Standing counsel for the respondent Board. When the matter came up for admission on 25.06.2015, taking note of the submission of counsel for the petitioner that there was no staff at the Regional Office at Una, and that the petitioner was effectively being transferred to an office without any personnel, I directed the Standing counsel for the respondent Board to get instructions with regard to the status of

functioning of the office at Una. Today, when the matter was taken up for admission, the learned Standing counsel for the respondent Board produced a statement which reads as follows:

“Spices Board opened an office in Una, Himachal Pradesh in the year 1st December 2013 for establishing Spices Park and for the overall development of spices in Himachal Pradesh. The Una office was initially run by a Dy.Director till 18 June 2014 and later by Assistant Director till 30.01.2015. These senior officers were posted in Una for identifying the location, getting allotment of land for Spices Park from the state government which needed constant interaction with the senior level officers of the State Government. The Assistant Director took voluntary retirement in January, 2015 on health grounds. Without getting the land allotted posting of Board's officials were not found to be necessary and follow up actions/liaison work for allotment of land was carried from head office as well as by the Dy.Director, Srinagar. The land for the proposed spices park in Himachal Pradesh has now been allotted by the Government of Himachal Pradesh on 26th May, 2015 as per letter No.AgrH(H-Tec)F(9)7/93VI dated **26th May, 2015** from Director Agriculture, Himachal Pradesh.

The Una office is functioning in a rented building having an area of 715 square feet (two rooms, kitchen, store room & toilet along with required furniture and Computer) and this can be used as office cum residence till additional staff are posted.

The posting of Sri.Anil Kumar, Sr.Clerk made on 8th June, 2015 is for liaisoning with the officials of Village/Taluk Administration for accomplishing the task of taking possession of the land allotted, its survey and demarcation. Sri.Anilkumar may also need to accompany Dy.Director, Srinagar or other senior officials to agriculture, horticulture departments for the follow up of fund allotment under mission for Integrated Development of Horticulture Scheme meant for Ginger. Mostly he shall be responsible for follow up with district horticulture/agriculture offices regarding same scheme. Any issue faced by him would be addressed by his Controlling Officer, Dy.Director at Srinagar or from head office.

As soon as the actual possession of the land is taken over by Spices Board or the approval of fund allotment under MIDH is considered under State Level Executive Committee (SLEC), Government of Himachal Pradesh, whichever is earlier, Spices Board would deploy additional manpower in Una office (at the level of Assistant Director/ Field Officer) for managing operations of Una office. The senior officer (Asst.Director/Field Officer level) would be the Controlling Authority of the staff posted in Una and would be responsible for overall activities related o operation of Una office and Spices Park. The administrative staff would primarily be responsible for maintenance of office administration, accounts and other activities as directed by the controlling authority. The Board may consider further enhancement in the manpower of the Una office as and when required.

Staff pattern of Una office.

Asst.Director/Field Officer: One

Agriculture Demonstrator : One
Administrative staff : One (Sr.Clerk/Assistant
Section Officer as the case may be)

Spices Board is in the process of expanding its activities across country for the welfare and development of stakeholders related to all the spices. Government of India has issued a Notification dated 8th June 2015 wherein 10 locations (spread across India) have been ordered as Spice Development Agencies which shall be responsible for all the activities related to development and promotion of spices within their jurisdiction. This would certainly entail decentralisation of duties, responsibilities as well as staff to these agencies from Head Officer, Cochin and other offices in order to ensure proper and smooth functioning of these agencies."

3. On a consideration of the facts and circumstances of the case and especially, the reasons stated in Ext.P5 order, coupled with the statement that is furnished by the learned Standing counsel for the respondent Board, I find that the respondent Board requires the services of the petitioner for liaisioning with the officials of the Village/Taluk Administration for accomplishing the task of taking possession of land allotted to the respondent Board by the Government of Himachal Pradesh. The services of the petitioner are also required in connection with the survey and demarcation of the said land. It is clearly indicated that the petitioner also has to

accompany the Deputy Director, Srinagar and other Senior Officials, to the Agricultural/Horticultural Department for the follow up of fund allotment under the Mission for Integrated Development of Horticulture Scheme meant for Ginger. The note submitted by the learned Standing counsel for the respondent Board, which is extracted above, clearly indicates that the management requires the services of the petitioner for its regional office at Una. Under the said circumstances, I am of the view that, the petitioner, who had taken up the job under the respondent Board, fully aware of the conditions of his service, which included conditions relating to transfer, cannot now turn around and contend that he cannot be transferred to any location. In the matter of transfer, this Court would be loathe to interfere unless there is a demonstrated case of malafides, a patent breach of statutory rules and regulations or a breach of the norms governing transfer in the organisation. Inasmuch as in the instant case, I do not find any such irregularity or illegality, I am not inclined to interfere with Ext.P1 order of transfer and the consequential relieving order that was issued to the petitioner (Ext.P6).

Resultantly, the writ petition in its challenge against Exts.P1 and P6 orders fails and is accordingly dismissed.

Counsel for the petitioner would submit that, considering that his transfer is to the Regional Office at Una in Himachal Pradesh, and the time granted for joining, in Ext.P6 order, is nearly over, some more time may be granted to the petitioner for joining at the Regional Office at Una. Taking note of the said submission of counsel for the petitioner, I grant the petitioner two weeks time from today to join the Regional Office at Una, pursuant to Exts.P1 and P6 orders. Save for this limited concession, the writ petition is otherwise dismissed. The respondents shall intimate the petitioner, of the person before whom he is to report at the Regional Office at Una, within one week from today.

A.K.JAYASANKARAN NAMBIAR
JUDGE

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