

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2015/8TH ASWINA, 1937

WP(C).No. 25929 of 2015 (M)

PETITIONER:

**JAYASANKAR V.N., AGED 53 YEARS
S/O.K.NARAYANAPILLAI
TRADE INSTRUCTOR, THE KERALA STATE CENTRE FOR
ADVANCED PRINTING & TRAINING (C-APT)
TRAINING DIVISION, CITY CENTRE, PUNNAPURAM
PETTAH P.O., THIRUVANANTHAPURAM-24.**

BY ADV. SRI.E.S.ASHRAF

RESPONDENTS:

- 1. THE STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT
HIGHER EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM-695 001**
- 2. THE KERALA STATE CENTRE FOR ADVANCED PRINTING & TRAINING (C-APT)
VATTIYOORKAVU, THIRUVANANTHAPURAM-13
REPRESENTED BY ITS MANAGING DIRECTOR.**
- 3. THE MANAGING DIRECTOR
THE KERALA STATE CENTRE FOR ADVANCED
PRINTING & TRAINING (C-APT)
VATTIYOORKAVU, THIRUVANANTHAPURAM-13**

**BY SMT.K.K.RAZIYA , SC, C-APT
BY GOVERNMENT PLEADER SMT. A. LOWSY**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
30-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS :-

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| EXT. P1 | - | COPY OF THE OFFICE ORDER DATED 03.11.2012 |
| EXT. P2 | - | COPY OF THE OFFICE ORDER DATED 21.04.2008. |
| EXT. P3 | - | COPY OF THE OFFICE ORDER DATED NIL DEPUTING PETITIONER AS INTERNAL EXAMINAR IN JULY 2012. |
| EXT. P4 | - | COPY OF THE ORDER DATED 24.02.2015 OF THE 2ND RESPONDENT . |
| EXT. P5 | - | COPY OF THE STATEMENT FILED ON BEHALF OF THE 2ND RESPONDENT IN W.P.(C) NO.7834/2014. |
| EXT. P6 | - | COPY OF THE ORDER NO.C-APT/1000/13/EST DATED 03.08.2015 TRANSFERRING THE PETITIONER TO SUB CENTRE KOLLAM. |
| EXT. P7 | - | COPY OF THE FORWARDING LETTER DATED 11.08.2015. |
| EXT. P8 | - | COPY OF THE LEAVE APPLICATION. |
| EXT. P9 | - | COPY OF THE MEDICAL CERTIFICATE. |
| EXT. P10 | - | COPY OF THE NEWS PAPER REPORT DATED 06.08.2015 PUBLISHED IN DESHABHIMANI DAILY SHOWING THE ENQUIRY AGAINST THE MANAGING DIRECTOR. |
| EXT. P11 | - | COPY OF THE REPRESENTATION BY THE MOTHER OF THE PETITIONER. |
| EXT. P12 | - | NIL |
| EXT. P13 | - | COPY OF THE I.A.(WITHOUT EXHIBIT) FILED IN W.P.(C) NO.7834 OF 2015. |
| EXT. P14 | - | COPY OF THE COMPLAINT DATED 24.08.2015 SUBMITTED BEFORE THE STATE HUMAN RIGHTS COMMISSION. |
| EXT. P15 | - | COPY OF THE GOVERNMENT ORDER DATED 03.09.2013. |

RESPONDENTS' EXHIBITS:- NIL

//TRUE COPY//

P.A. TO JUDGE

K. VINOD CHANDRAN, J.

W.P(C). No.25929 of 2015

Dated this the 30th day of September, 2015.

JUDGMENT

The petitioner, who is admittedly in a transferable job, challenges his transfer on the contention that the same is malafide and perpetrated only on the Managing Director being agitated with the filing of a writ petition before this Court. The petitioner contends that, he is a Trade Instructor, who is working in the Training Division at City Centre, Thiruvananthapuram, when he was transferred to a post at a Sub Centre at Kollam. The so-called need for a Training Centre at Kollam is said to be an illusory ground raised only to justify the transfer of the petitioner. The petitioner contends that, there is no post of Trade Instructor in the Sub Centre at Kollam and that the petitioner was singled out for transfer only due to the fact that the petitioner approached this Court with a writ petition.

2. The learned Standing Counsel appearing for the respondent Corporation however would submit that, there was no cause for any animosity due to the filing of the writ petition, since it only related to the revision of pay scales, which has been considered by the Government and is now pending consideration before the Governing Body of the respondent.. The reason for the instant transfer has been specifically stated in the Counter Affidavit filed by the respondent. The respondent also submits that, merely because the petitioner was appointed to the post of Trade Instructor, it is not as if, such persons will be utilised only for training purposes, especially since the respondent is involved in printing works, which is the main stay of the organisation.

3. Out of the 9 Trade Instructors appointed in the respondent, only 3 are said to be working at the Centres, where training courses are imparted. The majority of such Trade Instructors are working at various stations and engaged in other official duties. In addition to the fact that the petitioner is in a transferable job and has been continued in Trivandrum from 2008 onwards, the administrative reason is also explained. The

present transfer is said to be in pursuance of the need felt for establishing a training unit at Kollam Sub Centre and also the additional printing work of question papers, undertaken by the Kollam Sub Centre, which has to be completed in a time bound manner. This Court does not find any reason to interfere with the transfer, in such circumstances.

4. The learned counsel for the petitioner would rely on a judgment of this Court, wherein the transfer of an Office Attendant was up for consideration in WP(C) No.16786 of 2014 dated 16.07.2014. Therein, a transfer of an Office Attendant to the Sub Centre at Alleppey was cancelled without any reason. Though administrative reasons were said to be the cause of such transfer, even in the Counter Affidavit, there was no explanation as to what was the specific administrative reason. On facts, it was found that it was merely on the *ipsidixit* of the Managing Director that the cancellation was made. This Court was also swayed by the fact that the petitioner therein was a low grade employee and his transfer to Trivandrum after cancelling that to Alleppey, would put himself and his family into much hardship.

5. This Court is of the opinion that the facts in the present case differs substantially from the facts seen from the aforesaid judgment. The grounds on which the transfer has been effected has been clearly delineated in the Counter Affidavit There is absolutely no material for establishing the alleged malafides. The petitioner admittedly is in a transferable job and the Managing Director is the authority to effect such transfers.

In such circumstance, this Court is of the opinion that no ground exists for interference under Article 226 of the Constitution of India. Taking note of the administrative exigencies submitted by the respondent Corporation, if a training centre is not established within a reasonable time and on completion of the additional printing work at the Kollam Centre, the Managing Director would consider redeployment of the petitioner.

The writ petition is dismissed with the above observation.

Sd/-
K. VINOD CHANDRAN,
JUDGE.

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P.A. to Judge