

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 7TH DAY OF DECEMBER 2015/16TH AGRAHAYANA, 1937

WP(C).No. 27807 of 2015 (A)

PETITIONER(S):

**LUCY K.A., AGED 56 YEARS
W/O.GEORGE STEVENSON, KOOTTUNGAL HOUSE
ELAMKULAM VILLAGE, KANAYANNUR TALUK
ERNAKULAM DISTRICT.**

BY ADV. SRI.VARGHESE C.KURIAKOSE

RESPONDENT(S):

- 1. UNION OF INDIA, REPRESENTED BY SECRETARY,
DEPARTMENT OF EDUCATION
NEW DELHI-110 001.**
- 2. THE DAKSHIN BHARAT HINDI PRACHARA SABHA
KERALA (KERALA-ERNAKULAM)
REPRESENTED BY ITS SECRETARY, CHITTOOR ROAD
KOCHI-682016.**
- 3. THE SECRETARY
DAKSHIN BHARAT HINDI PRACHARA SABHA, CHITTOOR ROAD
KOCHI-682016.**
- 4. THE SPECIAL OFFICER
DAKSHIN BHARAT HINDI PRACHARA SABHA KERALA (KERALA-
ERNAKULAM) CHITTOOR ROAD
KOCHI-682016.**
- 5. THE PRINCIPAL
HINDI MAHAVIDYALAYA, CHITTOOR ROAD, ERNAKULAM-682018.**

**R1-R5 BY ADV. SRI.JAGADEESH LAKSHMAN, CGC
R2-R5 BY ADV. SRI.T.R.RAVI
R BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 : TRUE PHOTOSTAT COPY OF THE TRANSFER ORDER DT 30-3-2015.

**EXT.P1(A) : TRUE PHOTOSTAT COPY OF THE MALAYALAM TRANSLATION OF
THE TRANSFER ORDER DT 30-3-2015.**

**EXT.P2 : TRUE PHOTOSTAT COPY OF THE FRESH TRANSFER ORDER OF
THE 4TH RESPONDENT DT 16-4-2015.**

**EXT.P2(A) : TRUE PHOTOSTAT COPY OF THE MALAYALAM TRANSLATION OF
THE FRESH TRANSFER ORDER OF THE 4TH RESPONDENT.**

**EXT.P3 : TRUE PHOTOSTAT COPY OF THE REPRESENTATION DT 11-8-2015
SUBMITTED TO THE RESPONDENTS NO.3 AND 4 BY THE
PETITIONER.**

**EXT.P4 : TRUE PHOTOSTAT COPY OF THE ACKNOWLEDGEMENT CARD
SIGNED BY THE 3RD RESPONDENT.**

**EXT.P5 : TRUE PHOTOSTAT COPY OF THE ACKNOWLEDGEMENT CARD
SIGNED BY THE 4TH RESPONDENT.**

**EXT.P6 : TRUE PHOTOSTAT COPY OF THE REPRESENTATION DT 2-8-2015
SUBMITTED TO THE RESPONDENTS NO.3 AND 4.**

RESPONDENT(S)' EXHIBITS

EXT. R2(A) COPY OF ORDER DTD. 11.6.15 WITH ENGLISH TRANSLATION

EXT.R2(B) COPY OF ORDER DTD.26.615WITH ENGLISH TRANSLATION

// TRUE COPY //

P.A TO JUDGE

SB

K. VINOD CHANDRAN, J.

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W.P.(C) No.27807 of 2015 - A

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Dated this the 07th day of December, 2015

J U D G M E N T

The petitioner is aggrieved with Ext.P1 order and the subsequent accommodation made as per Ext.P2.

2. The brief facts to be noticed are that the petitioner, an Adhyapika in the 5th respondent school under the 2nd respondent, appointed so in 1989 and continued without any interruption all these years, has been all of a sudden transferred to Bekal, Kasaragod as per Ext.P1. The petitioner in compliance with the transfer order, quite realising the fact that the petitioner is in a transferable job, took relief from the 5th respondent school and went to Kasaragod. It is submitted that there was a civil suit pending and the school was not functional. In such circumstance, the petitioner is said to have reported the fact to the 2nd respondent.

3. The 2nd respondent has filed a counter affidavit, pointing out that the school was not functional and there was a

civil suit pending, but however the 2nd respondent won the suit and resumed possession of the school and the premises and the petitioner, who was a senior teacher, was deputed to that school to restart the functioning of the school. It is also indicated that there was no complaint made as to the petitioner being not able to work in the school and the only complaint was that there was not even a urinal in the said school. In such circumstance, the petitioner was asked to report to the school at Neeleswaram as per Ext.P2. The petitioner is said to have reported at Neeleswaram and had been on Earned Leave after that.

4. The petitioner's contention is that the administrative exigency as seen from Ext.P1 is no longer there, since the Bekal school is not functional. It cannot be so contended especially since the 2nd respondent submits that the 2nd respondent has now come in to possession of the school and its premises and then intend to re-start the school. The petitioner, a senior teacher though transferred there; considering the defect pointed out of there being not even a urinal, the

petitioner was accommodated in Neeleswaram.

5. The learned Standing Counsel for the 2nd respondent, on instructions undertakes that the petitioner would be posted in Bekal, only after sufficient facilities are provided there. The petitioner being in a transferable job and also the same being an incidence of service, cannot challenge the same only on the ground of hardship of having been shifted from Ernakulam to Kasaragod. The petitioner has also contented that the petitioner has only service up to 20.05.2017, on which date, the petitioner superannuates. In such circumstance, the representation at Ext.P3 submitted by the petitioner to the 2nd respondent shall also be considered. But however, the consideration shall be after balancing the need of the 2nd respondent and the grievance projected by the petitioner.

The writ petition, hence would stand closed, with the above observation.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

SB/07/12/2015

// true copy //
P.A to Judge.