IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN

THURSDAY, THE 7TH DAY OF MARCH 2024 / 17TH PHALGUNA, 1945

OP(CAT) NO. 48 OF 2024

AGAINST THE ORDER DATED 14.02.2024 IN O.A.NO.44/2024 OF CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

PETITIONER/APPLICANT:

LETHA SUNUKUMAR, AGED 53 YEARS,
W/O.SUNUKUMAR K.S., KAVARATTU, KMC- 2/1204,
SIVASAKTHINAGAR-140 MOOTHEZHAM,
SAKTHIKULANGARA P.O., KOLLAM, PIN – 691581,
PRESENTLY WORKING AS POST GRADUATE TEACHER(PGT)
AT KV NO.1, GANDHI NAGAR, JAMMU - 180004.

BY ADVS.
GEORGE VARGHESE(PERUMPALLIKUTTIYIL)
MANU SRINATH
NIMESH THOMAS
LIJO JOHN THAMPY
SAURAV VINOD

RESPONDENTS/RESPONDENTS:

1 **KENDRIYA VIDYALAYA SANGATHAN,**
REPRESENTED BY ITS COMMISSIONER,
18 INSTITUTIONAL AREA, SHAHEED JEET
SINGH MARG, NEW DELHI, PIN – 110016.

2 **JOINT COMMISSIONER (ADMN),**
KENDRIYA VIDYALAYA SANGATHAN HQ,
18 INSTITUTIONAL AREA, SHAHEED JEET
SINGH MARG, NEW DELHI, PIN – 110016.

3 THE DEPUTY COMMISSIONER,
KENDRIYA VIDYALAYA SANGADHAN, REGIONAL OFFICE,
GANDHI NAGAR ROAD, NEAR RAJIV GANDHI INDOOR
STADIUM, KADAVANTHARA, GANDHI NAGAR,
ELAMKULAM, ERNAKULAM, KERALA, PIN – 682020.

4 THE DEPUTY COMMISSIONER,
KENDRIYA VIDYALAYA SANGADHAN, REGIONAL OFFICE,
NEAR GOVT. HOSPITAL, GANDHI NAGAR,
JAMMU, PIN – 180004.

5 ASSISTANT COMMISSIONER, ESTABLISHMENT II AND
III, 18 INSTITUTIONAL AREA, SHAHEED JEET SINGH
MARG, NEW DELHI, PIN – 110016.

6 PRINCIPAL, KENDRIYA VIDYALAYA, KOLLAM,
MARUTHADY ROAD, RAMANKULANGARA,
THIRUMULLAVARAM, KOLLAM, KERALA,
PIN – 691003.

7 PRINCIPAL, KENDRIYA VIDYALA, KV NO.1,
GANDHI NAGAR, JAMMU, PIN – 180004.

BY SRI.K.I.MAYANKUTTY MATHER, STANDING COUNSEL

THIS OP (CAT) HAVING BEEN FINALLY HEARD ON 07.03.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

A. Muhamed Mustaque, J.

This original petition was filed challenging the order of the Central Administrative Tribunal, Ernakulam Bench (for short, the 'Tribunal') holding that it has no territorial jurisdiction to consider the challenge made by the petitioner herein. The prayers of the petitioner before the Tribunal are as follows:

(I) Issue appropriate orders setting aside Annexure-A1 order so far as it transfers the applicant from K.V.Kollam to K.V.No.1, Gandhi Nagar, Jammu.

(ii) Issue appropriate orders, commanding the 1st respondent to consider Annexures-A4 to A6 representations with specific reference to medical records appended to the representations and to consider her to available vacancies within southern region, within such time as may be fixed by the Tribunal.

2. The Tribunal, in fact, after adverting to the merits of the case, found that it has no territorial jurisdiction. The territorial jurisdiction is normally related

to the cause of action. Over and above, the Central Administrative Tribunal (Procedure) Rules also confer the applicant's opportunity to approach the Tribunal where he is posted for the time being. To understand the cause of action, admittedly, the petitioner is now working in Jammu. Therefore, based on the first part of Rule 6(1)(i) of the Central Administrative Tribunal (Procedure) Rules, she cannot maintain a petition in the State of Kerala. However, she can very well maintain the petition before the Tribunal in the State, if she has a cause of action, wholly or partly arisen in the State of Kerala. The challenge is essentially related to the transfer from K.V. Kollam to K.V. No.1 Gandhi Nagar, Jammu, that means, the challenge is in relation to an action before she was posted to Jammu. In that sense, the challenge is perfectly maintainable. Whether she is precluded from challenging the transfer after she has been posted at Jammu is a matter to be considered by the Tribunal on merits. The Tribunal cannot decide the jurisdiction based on the rival

contentions raised in the matter. The cause of action in this case is essentially to the pleadings narrated by the petitioner before the Tribunal. That clearly indicates that she was aggrieved by an action transferring her from K.V. Kollam to K.V.No.1, Gandhi Nagar, Jammu. That be the case, we are of the view that it is maintainable. We order that the Tribunal shall consider the matter afresh on merits. The impugned order is *set aside*. The parties are directed to appear before the Tribunal on 18.03.2024.

The original petition is disposed of as above.

Sd/-
A.MUHAMED MUSTAQUE
JUDGE

Sd/-
SHOBA ANNAMMA EAPEN
JUDGE

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APPENDIX OF OP (CAT) 48/2024

PETITIONER'S ANNEXURES:

ANNEXURE A1	**A TRUE COPY OF THE F.NO. 11-E-II046/2/2023-ESTT-II/ PART1-A-2-II-(A)-B)(III)-ADMINISTRATIVE GROUNDS DATED 03.08.2023 ISSUED BY THE 5TH RESPONDENT.**
ANNEXURE A2	**A TRUE COPY OF RELIEVING ORDER F NO. 31046/2-4/KVK/2023-24/547 DATED 05.08.2023 ISSUED BY PRINCIPAL, KV, KOLLAM.**
ANNEXURE A3	**A TRUE COPY OF THE LETTER NO. F-33/KV1JAMMU/2023-24/117 DATED 26.09.2023 ISSUED BY THE 4TH RESPONDENT.**
ANNEXURE A4	**A TRUE COPY OF REPRESENTATION DATED 04.08.2023 SUBMITTED BY THE APPLICANT TO THE 1ST RESPONDENT THROUGH THE 3RD RESPONDENT.**
ANNEXURE A5	**A TRUE COPY OF REPRESENTATION DATED 26.09.2023 SUBMITTED BY THE APPLICANT TO THE 1ST RESPONDENT THROUGH THE 4TH RESPONDENT.**
ANNEXURE A6	**A TRUE COPY OF REPRESENTATION DATED 15.11.2023 ALONG WITH MEDICAL RECORDS SUBMITTED BY THE APPLICANT TO THE 1ST RESPONDENT THROUGH THE 4TH RESPONDENT.**
ANNEXURE A7	**A TRUE COPY OF THE OUTPATIENT TICKET DATED 08.01.2024 ISSUED BY DISTRICT HOSPITAL, KOLLAM.**
ANNEXURE A8	**A TRUE COPY OF THE INPATIENT DISCHARGE SUMMARY ISSUED BY SREE AVITOM THIRUNAL HOSPITAL, MEDICAL COLLEGE, THIRUVANANTHAPURAM.**

ANNEXURE A9	**A TRUE COPY OF NOTICE NO. 11-E-II(046)/2023/ESTT-II/7668 DATED 29.09.2023**
ANNEXURE A10	**A TRUE COPY OF OFFICE ORDER FILE NO. 11-E-II(046)/TRANSFER/2023/E-II/7792 DATED 13.10.2023 ISSUED BY 5TH RESPONDENT.**
ANNEXURE A11	**A TRUE COPY OF KVS TRANSFER POLICY, 2023.**
ANNEXURE A12	**A TRUE COPY OF PRESCRIPTION SLIP DATED 17.08.2023 ISSUED BY THE FAMILY HEALTH CENTRE, KALLADA EAST, KOLLAM.**
ANNEXURE A13	**A TRUE COPY OF ORDER FILE NO. 1-2/2023/KVSHQ(ESTT-II)/PART FILE/7986 DATED 27.10.2023.**
EXHIBIT P1	**A TRUE COPY OF APPLICATION IN O.A 180/0044/2024 FILED BEFORE CAT ERNAKULAM.**
EXHIBIT P2	**A TRUE COPY OF OBJECTION DATED 05.02.2024 FILED ON BEHALF OF RESPONDENTS 1 TO 7 BY ITS STANDING COUNSEL.**
EXHIBIT P3	**A TRUE COPY OF THE APPLICATION - M.A. NO. 118/2024 IN O.A. NO. 44/2024 PREFERRED BY THE PETITIONER BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH.**
EXHIBIT P4	**A TRUE COPY OF ORDER DATED 14.02.2024 IN O.A 180/0044/2024 AND IN MA.180/0118/2024 IN O.A 180/0044/2024 PASSED BY THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL.**