

B.Surendran Vs. the Commissioner

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Court : Kerala

Decided On : Dec-19-2013

Judge : Honourable Mr.Justice C.T.Ravikumar

Appellant : B.Surendran

Respondent : The Commissioner

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN & THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH THURSDAY, THE 19^H DAY OF DECEMBER 2013 28TH AGRAHAYANA, 1935 OP (CAT).No. 4349 of 2013 (Z) ----- AGAINST THE

ORDER

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JUDGMENT

IN OA5452013 of CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH DATED 03.12.2013 PETITIONER(S): ----- B.SURENDRAN AGED 54 YEARS, S/O. BHARGAVA PANICKER, LIBRARIAN KENDRIYA VIDYALAYA, SHIFT NO. II, PATTOM TRIVANDRUM, RESIDING AT SAYUJYAM, T.C. 7/1226 PONGUMOODU, MEDICAL COLLEGE P.O. THIRUVANANTHAPURAM - 695 011. BY ADVS.SRI.T.C.GOVINDA SWAMY

SMT.T.N.SREEKALA RESPONDENT(S): ----- 1. THE COMMISSIONER KENDRIYA VIDYALAYA SANGATHAN18- INSTITUTIONAL AREA, SHAHEED JEET SINGH MARG NEW DELHI - 110 016.

2. THE JOINT COMMISSIONER KENDRIYA VIDYALAYA SANGATHAN18- INSTITUTIONAL AREA, SHAHEED JEET SINGH MARG NEW DELHI - 110 016.

3. THE DEPUTY COMMISSIONER KENDRIYA VIDYALAYA SANGATHAN, ERNAKULAM REGION KADAVANTHRA, KOCHI - 682 020.

4. MS. VIDYA LIBRARIAN, KENDIRYA VIDYALAYA, IIT CAMPUS POWAI, MUMBAI - 400 091. R BY SRI.V.V.ASOKAN (SR.) THIS OP (CAT) HAVING COME UP FOR ADMISSION ON1912- 2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: OP (CAT).No. 4349 of 2013 (Z)
----- APPENDIX PETITIONER(S)' EXHIBITS
----- EXHIBIT-P1- COPY OF THE

ORDER

DATED0312/2013 IN O.A5452013 RENDERED BY THE HONOURABLE CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM. EXHIBIT-P2- COPY OF THE O.A5452013 DATED1106/2013, FILED BY THE PETITIONER BEFORE THE CAT, ERNAKULAM BENCH. EXHIBIT-P3- COPY OF THE REPLY STATEMENT FILED BY THE RESPONDENTS1TO3IN O.A5452013. EXHIBIT-P4- COPY OF THE REPLY STATEMENT DATED1507/2013, FILED BY THE4H RESPONDENT IN O.A5452013 BEFORE THE HONOURABLE TRIBUNAL. EXHIBIT-P5- COPY OF THE M.A DATED0111/2013 PRODUCING A DOCUMENT BEARING NO. F. 11046/1/2013/KVS (HQ)(ESTT) FILED BY THE APPLICANT. EXHIBIT-P6- COPY OF THE ANNUAL PERFORMANCE APPRAISAL REPORT FOR THE PERIOD ENDING3103/2010 BY THE PETITIONER. EXHIBIT-P7- COPY OF THE ANNUAL PERFORMANCE APPRAISAL REPORT FOR THE PERIOD ENDING3103/2011 BY THE PETITIONER. EXHIBIT-P8- COPY OF THE ANNUAL PERFORMANCE APPRAISAL REPORT FOR THE PERIOD ENDING3103/2012 BY THE PETITIONER. EXHIBIT-P9- COPY OF THE INCENTIVE AWARD CERTIFICATE DATED1312/2010, ISSUED JOINTLY BY THE CHAIRMAN AND ALSO THE COMMISSIONER OF THE KENDRIYA VIDYALAYA SANGATHAN IN FAVOUR

OF THE PETITIONER. RESPONDENT(S)' EXHIBITS
----- NIL //TRUE COPY// PA TO JUDGE. jg
THOTTATHIL B.RADHAKRISHNAN & BABU MATHEW P.JOSEPH, JJ.

..... OP(CAT) No.4349 of 2013
..... Dated this the 19th day of December,
2013.

JUDGMENT

Thottathil B.Radhakrishnan, J.

Petitioner stands transferred from Kendriya Vidyalaya, Pattom in Thiruvananthapuram to KV, Payyannoor in Kannur. He is a Librarian. Whatever criticism is made against the order of the Central Administrative Tribunal, including that there are some misstatement of facts therein; three things are certain. Firstly, the petitioner before us can never say that he was not due to be transferred out, having spent a large chunk of his career in Thiruvananthapuram, that is to say, for nearly 23 years. Secondly, it cannot be disputed that the rival candidate, namely, the 4th respondent, was eligible in terms of the guidelines for transfer on her request as a woman employee, to a station of her choice. Added to this, is a third situation, that the original application before the Tribunal or the original petition before us cannot be treated to have any specific case of malice, mala fides or arbitrariness being shown on the basis of favouritism. The learned OP(CAT) 4349/13 -2- counsel for the petitioner has strenuously pointed out that the transfer guidelines exclude the attempt to influence the system through other means. The document produced as Annexure-MA1, which is a note from the Kendriya Vidyalaya Sanghathan's (KVS) Administrative Officer to the Private Secretary to the Minister of State, Human Resources Development (HRD); does not indicate that there was any extraneous influence as excluded by the transfer guidelines. We say this because, all that the said note issued from that Ministry required the KVS establishment, was to take suitable action on the applications, which were pending before the KVS. Action taken was to be reported to the HRD. KVS is an institution coming under the HRD. HRD Minister is its Chairman. One among the

Ministers of State in the HRD Ministry is the Vice Chairman. We see abundant authority with the Ministry to seek information as to what has been happened on a matter in such an establishment, so long as the Ministry does not interfere and dictate decisions to the KVS establishment on file to file basis. We do not see that the Ministry has done anything more than the routine supervisory exercise by eliciting information. We say this because, it is the OP(CAT) 4349/13 -3- admitted fact situation that applications for request transfers were pending with the KVS. In view of the aforesaid, we do not have to consider whether the reasoning of the Tribunal is justified on facts. We see that the order of transfer of the petitioner from KV, Pattom to KV, Payyannoor does not warrant interference. Under such circumstances, we find no ground of injustice tilting against the petitioner, requiring this Court to exercise jurisdiction under Articles 226 & 227 of the Constitution of India in his favour, and thereby setting aside the order of the Tribunal, as also, the impugned transfer order. For the aforesaid reasons, this original petition fails. In the result, the original petition is dismissed. (THOTTATHIL B.RADHAKRISHNAN, JUDGE) (BABU MATHEW P. JOSEPH, JUDGE) jg

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