

Anil Kumar T.K. Vs. The Secretary

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Court : Kerala

Decided On : Jun-29-2015

Judge : Honourable Mr. Justice a.K.Jayasankaran Nambiar

Appellant : Anil Kumar T.K.

Respondent : The Secretary

Judgement :

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 68202 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 68202 2. THE CHAIRMAN SPICES BOARD, SUGANDHA BHAVAN, NH BY PASS PB.NO.2277, PALARIVATTOM PO, COCHIN PIN 68202 3. MR. A.JAYATHILAK IAS CHAIRMAN, SPICES BOARD, SUGANDHA BHAVAN NH BY PASS, PB.NO.2277, PALARIVATTOM PO COCHIN, PIN 68202 4. UNION OF INDIA REPRESENTED BY THE MINISTRY OF COMMERCE NEW DELHI 11000 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 TRAINING, 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

JUDGMENT

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 W.P.(C).No.19238 of 2015 2 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 W.P.(C).No.19238 of 2015 3 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. W.P.(C).No.19238 of 2015 4 The posting of Sri.Anil Kumar, Sr.Clerk made on 8th June, 2015 is for liaisioning 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 W.P.(C).No.19238 of 2015 5
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 W.P.(C).No.19238 of 2015 6
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. W.P.(C).No.19238 of 2015 7 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 mns

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