

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 456 of 1992
T. A. No.

DATE OF DECISION 23-3-1992

Sreedevi Applicant (s)

Mr MM Abdul Aziz Advocate for the Applicant (s)

Versus

Director, Vector Control Respondent (s)
Research Centre Medical Complex,
Pondicherry & 2 others

Mr NN Sugunapalan, SCGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. PS HABEEB MOHAMED, ADMINISTRATIVE MEMBER

&

The Hon'ble Mr. AV HARIDASAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *Yes*
4. To be circulated to all Benches of the Tribunal? *Yes*

JUDGEMENT

(Mr AV Haridasan, Judicial Member)

The applicant working as Lab Assistant under the first respondent at Chertalla was transferred to Ponnani by order dated 22.1.1992. Aggrieved by the above order of transfer, the applicant filed OA-183/92. This application was disposed of with a direction to the applicant to make a representation to the 1st respondent and to a further direction to the respondents to take into account the averments made in the representation and to dispose of the same within 2 weeks from the date of receipt of the representation and that till the disposal of the representation, the applicant could be retained at Chertalla. Now that the representation submitted by the applicant has been disposed

of by the 1st respondent by the impugned order at Annexure-B dated 18.2.1982 turning down the request of the applicant to cancel the transfer but allowing the applicant to stay at Chertalla till the close of the academic session, the applicant has again approached this Tribunal with this application under Section 19 of the AT Act. The applicant has averred in the application that there are several persons in the same category working at Chertalla both senior and junior to the applicant who can be transferred to Ponnani in case of any administrative exigency and that picking up the applicant from the lot for transfer to Ponnani amounts to violation of guidelines, mala-fides and colourable exercise of power and therefore she prays that the impugned order may be quashed. The applicant has further averred that as her husband is employed at Kochi, as per norms, she is entitled to be posted in ^{or} near Kochi and that Chertalla being nearer to Kochi than Ponnani, she should not have been transferred to Ponnani. She has also stated that Mr. Vijayakumar, who is a bachelor as well as a person from Tamil Nadu could have been transferred to Ponnani, as to him it would not make any difference if he is posted in Ponnani or Chetalla.

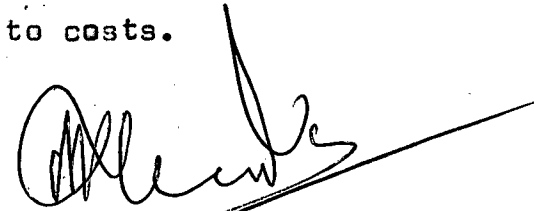
2. We have heard the learned counsel for the parties.

3. The Hon'ble Supreme Court has time and again in a catena of rulings reiterated that an employee holding a transferable job has no right to claim that he should be retained in a particular post or posted in a particular station. Though the guidelines in regard to transfers are to be adhered to, as far as

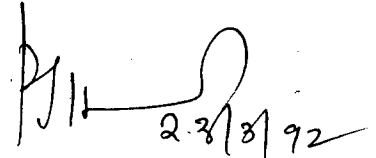
possible, they do not clothe the employee with a right to challenge a transfer made in the exigencies of service. Taking note of the family circumstances of the applicant, the 1st respondent has allowed the applicant to continue at Chertalla till the close of the academic session. It has been stated that the vacancy position in the Department as well as the necessity of an expert Laboratory Assistant at Ponnani has necessitated, the transfer of the applicant who has acquired considerable experience as a Laboratory Assistant. We do not find any arbitrariness in the decision taken by the 1st respondent. The learned counsel for the applicant argued that compliments are showered on the applicant only to shield the colourable exercise of power in stopping the applicant for transfer to Ponnani. It has not been averred in the application that the Director has got any personal illwill towards the applicant, or any special reason to favour the other persons who have been retained at Chetalla. Therefore, we do not find any reason to suspect the sincerity of the 1st respondent when he has stated that the applicant has gained considerable experience and that it is expedient in the interest of service that the applicant is transferred to Ponnani. As the head of department has taken a decision to transfer the applicant to meet the exigencies of service, we are of the view that judicial intervention is not called for in the matter.

4.. For the above said reasons, we are of the view that there is nothing further to be deliberated in this application and therefore we reject the same under Section 19(3) of the

AT Act. But we would like to make it clear that this order will not stand in the way of the 1st respondent reconsidering the question if found feasible, taking a sympathetic view of the family background of the applicant. There is no order as to costs.



(AV HARIDASAN)
JUDICIAL MEMBER



(PS HABEEB MOHAMED)
ADMINISTRATIVE MEMBER

23-3-1992

trs