

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH  
O.A. NO.469/2011

Dated this the 25<sup>th</sup> day of July, 2012

C O R A M

HON'BLE Mrs.K. NOORJEHAN, ADMINISTRATIVE MEMBER

E.Jamaludheen, S/o P.Koya, Staff Car Driver  
Directorate of Education, Kavaratti  
Pokkarada House, Kvarati - 682556.

Applicant

By Advocate Mr P.V.Mohanam.

Vs

- 1 The Administrator, Union Territory of Lakshadweep, Kavaratti-682555.
- 2 The Director (Services), UT of Lakshadweep Kavarathi - 682555.
- 3 Sri B.Noorul Lathiff, Staff Car Driver,  
O/o Secretary to Administration, Kochi - 682006.

Respondents

By Advocate Mr. S. Radhakrishnan.

The Application having been heard on 10.7.2012 the Tribunal delivered the following:

O R D E R

HON'BLE Mrs.K.NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant, a Staff Car Driver, is aggrieved by his transfer from Kavarati to Kalpeni Island by replacing the 3<sup>rd</sup> respondent.

2 Brief facts of the case as stated by the applicant are that he is a native of Kalpeni Island. He is presently working as Staff Car Diver at Directorate of Education, Kavarati. His wife is also working as Stenographer under the Directorate of Agriculture, Kavarati. His eldest son is studying plus 2 at Kochi and younger son is studying X standard (English medium) in Kendriya Vidyalaya, Kavarati. He further stated that his younger son is

ty

undergoing treatment for heart ailment. He constructed his house at Kavarati by availing loan. They are settled at Kavarati. His wife underwent surgery on laparoscopic hysterectomy on 19.1.2011 and needs frequent consultation with Gynecologist at Kavarati. While so by an order dated 5.5.2011 the respondents issued transfer order and posted him at Sub Division Office, Kalpeni and the 3<sup>rd</sup> respondent was posted at his place. The contention of the applicant is that in other Islands there is no English Medium School above VIII standard. Therefore to cater to the education of his son he has to stay alone at Kavarati. For treatment of his son it is stated that there is frequent transportation from Kavarati to Mainland at Cochin and not from Kalpeni. His wife was also transferred to Kalpeni by Annx.A3 dated 5.5.2011. Her request for cancellation of her transfer was also rejected. She filed OA 80/2011 before this Tribunal which is pending. He alleged that there are more than 20 Staff Car Drivers working at Kavarati continuously for more than 20 years without facing any transfer and he was singled out arbitrarily and without any justifiable for the transfer. His representation against the transfer was rejected by Annx.A5.

3 The official respondents contested the OA by filing reply. In the reply it is stated that the applicant is a native of Kalpeni and after 22 years of service in other islands he was transferred to his native place. Further they averred that the wife of the applicant is also a native of Kalpeni and was transferred from Kavarati to Kalpeni by Annx.A3. It is further submitted that as per the transfer policy of the Administration, in cases where both husband and wife are government servant, they may be posted in the same station as far as possible. Therefore the transfer of the applicant and his wife from Kavarati to Kalpeni are strictly in accordance with the transfer policy of the Administration especially when they are accommodated in their native island. It is added that by an order dated 23.8.2004 it was brought to all concerned that in case of an employee whose children are studying in the Kendriya Vidyalaya, Kavarati, transfer shall be effected as per requirement of the Administration. The applicant has been

74

transferred against a retirement vacancy hence the transfer was necessary to carry on the function of Staff Car Driver in the SDOs Office, Kalpeni. Regarding the applicant's request for transfer to Kochi on the ground that his elder son is studying in the Mainland, It is stated that there are about 3000 students of Lakshadweep studying in Mainland and majority of them are either wards or near relatives of Govt servants. Therefore seeking transfer on this ground cannot be acceded.

4 Heard learned counsel appearing for the parties and perused the records produced.

5 It is an admitted fact that the applicant and his wife are native of Kalpeni Island. It is submitted by the respondents that as per the transfer policy of the Administration, in cases where both husband and wife are government servants, they may be posted to the same station as far as possible. Accordingly both of them were transferred and posted at Kalpeni strictly in accordance with the transfer policy of the Administration especially when both of them are natives of the island. In this case as a welfare measure and to safeguard the wellbeing of the family the respondents have chosen to transfer his wife to Kalpeni, where he can live with his wife. In the year 2004 itself the respondents have brought to the notice of all the employees that education of their wards in Kendriya Vidyalay at Kavarati will not be a bar for not effecting transfer to other Islands. In the year 1995 the applicant was given a chance to serve in Mainland for 5 years. Moreover the number of posts of Driver in the Mainland is limited. The respondents have considered his representation on the basis of the direction given by this Tribunal and rejected by a speaking order. In view of the above I do not find any arbitrariness on the part of the respondents which needs interference on behalf of the applicant, as no injustice has been done to him. As far as his requirement for medical treatment for his younger son and higher education for his elder son are concerned, there are many government servants who are similarly placed like him in the islands. During hearing the counsel for the respondents stated

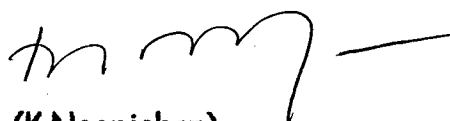
74

that both the applicant and his wife have since joined their respective posts at Kalpeni

6 It is well settled that the Courts or Tribunal are not appellate forum to decide on transfers of officers on administrative grounds. The wheels of administration should be allowed to run smoothly and the courts or tribunals are not expected to interdict the working of the administrative system by transferring the officers to places of their choice. Transfer of an employee is an incident of service. An employee has no vested right to remain posted at a place of his choice nor can he insist that he must be posted at one particular place or other. An employee is therefore, liable to be transferred to meet the administrative exigencies and to prevent any vested interest being developed, on account of longer stay in a particular station. Ordinarily, the Courts/Tribunals would not interfere in the transfer of an employee unless there is any malafide intention alleged and proved against the departmental authorities. In a catena of judgments the Apex Court has categorically stated that it is the prerogative of the Government/department to decide who is to be posted to a particular place in the overall interest of the organisation. The employee has no right to choose a particular post or place for his posting. Therefore, I do not find any violation of transfer policy norms in the impugned transfer order.

7 Keeping in mind the dictum laid down by the Apex Court in transfer matters and in view of the foregoing I do not find any illegality in the issuance of transfer order at Annexure A-2. None of the grounds raised is tenable. In view of the foregoing, the O.A is dismissed. No costs.

Dated 25<sup>th</sup> July, 2012



(K.Noorjehan)  
Administrative Member.