

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 529 OF 2013

Monday, this the 27th day of January, 2014

CORAM:

HON'BLE MR.JUSTICE A.K.BASHEER, JUDICIAL MEMBER

K.K.Abdul Razak
Tourism Officer, HQ Office
Department of Tourism
Kavaratti Island

... Applicant

(By Advocate Mr. K.B.Gangesh)

versus

1. The Administrator
Administration of the Union Territory of Lakshadweep
Kavaratti – 682 555

2. The Director (Tourism)
Administration of the Union Territory of Lakshadweep
(Secretariat), Department of Tourism
Kavaratti – 682 555

... Respondents

(By Advocate Mr.S.Radhakrishnan)

The application having been heard on 27.01.2014, the Tribunal on the same day delivered the following:

ORDER

HON'BLE MR.JUSTICE A.K.BASHEER, JUDICIAL MEMBER

Applicant is stated to be working as Tourism Officer in the Department of Tourism at Kavaratti under the Administration of Union Territory of Lakshadweep. He has filed this Original application challenging Annexure A-1 order of his transfer to Kochi as Public Relation Officer "by shifting the post of Tourism Officer" to Kochi.

2. It is contended by the applicant that the above order is ex facie, illegal and arbitrary. It is pointed out that the above exercise of shifting the post without obtaining prior permission from the Ministry of Finance is clearly against the order issued by the said Ministry in Annexure A-5 Office



Memorandum dated October 25, 1977. He submits that the applicant was transferred from Kochi to Minicoy in July, 2010. However, the said order was kept in abeyance initially and he was posted at Kavaratti later in October, 2011. After his transfer to Kavaratti, he had started construction of a residential building there and the work is now in progress. It is at this juncture that the applicant is ordered to be transferred to Kochi as Public Relation Officer and not as Tourism Officer and that too by shifting the post to Kochi. He contends that no post of Tourism officer is available in Kochi and therefore Annexure A-1 order suffers from serious irregularity.

3. Per contra it is contended by the respondents that the applicant had admittedly worked in Kochi as Tourism Officer for nearly four years from 2007 till 2011. Therefore, the applicant cannot be heard to say that the post of Tourism Officer is not available in Kochi. It is pointed out by the learned counsel that the Administrator had created two posts of Tourism Officer and other temporary Group 'C' and 'D' posts as could be seen from Annexure R-1 (a) proceedings dated October 23, 1989 pursuant to the approval conveyed by the Department of Tourism under the Ministry of Home Affairs, Government of India in exercise of the powers conferred under Rule 13 Schedule III of the Delegation of Financial Power Rules, 1978. Significantly, these posts were created under the Administration and not in any particular station. It was in terms of the above order that applicant had been posted at Kochi in 2007 as Tourism Officer. It is true that in Annexure A-1 order his designation has been indicated as Public Relation Officer. It is contended by the respondents that the duties and functions of Tourism Officer are mainly in the nature of "public relations". Therefore, the nomenclature of the present post cannot have any relevance or

12

significance particularly since the applicant does not have a case that he has now been placed in a lower post.

4. But, according to the applicant, the post of Public Relation Officer comes under the Ministry of Information and Public Relations. Be that as it may, a perusal of Annexure A-1 order will show that the status and designation of the applicant has not been changed. Therefore, the contention of the applicant that he cannot be asked to work as Public Relation Officer since he holds the post of Tourism Officer does not carry much weight or substance. In this context it may also be noticed that in 2007 the applicant had been transferred as Public Relation Officer to Kochi though he was designated as Tourism Officer and he had held the post of Public Relation Officer for nearly four years. At that time, the applicant did not raise any demur or protest about the said posting. But the contention of the applicant is that even though he had worked as Public Relation Officer at Kochi on an earlier occasion without raising any protest, the Administration cannot shift the post without prior permission from the Ministry of Finance as stipulated in Annexure A-5 Office Memorandum.

5. I have carefully perused Annexure R-1 (a) proceedings of the Administrator as well as Annexure A-5 Office Memorandum. It has to be noticed that while creating two posts of Tourism Officer under the Administration it had not been indicated where the two posts are to be allocated. As rightly pointed out by learned counsel for the respondents Kochi is the "Tourism hub" so far as the Administration is concerned and the Administration wanted the service of the applicant at Kochi. It is significant to note that the applicant has not imputed any malafides against the Administration in transferring him.

152

6. Having regard to the entire facts and circumstance of the case, I do not find any illegality or irregularity in the order of transfer. However, it will be open to the applicant to highlight his grievance before Respondent No.1 by way of a representation, which will be submitted within ten days from today. Respondent No.1 shall take a decision on the said representation as expeditiously as possible, at any rate, within one month from the date of receipt of the same. Status quo as on today, shall be maintained till such a decision is taken on the representation.

7. Original Application is **disposed** of in the above terms. No costs.

Dated, the 27th January, 2014


JUSTICE A.K. BASHEER
JUDICIAL MEMBER

VS