

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.551/2003

Friday this the 26th day of September, 2003.

C O R A M

HON'BLE MR K.V.SACHIDANANDAN, JUDICIAL MEMBER

M.Parthipan,
Sports Authority of India,
Basket Ball Coach,
Sports Authority of India Training Centre,
Indoor Stadium,
Calicut

: Applicant

[By Advocate Mr.Sibi J Monippally]

Vs.

1. The Union of India represented by
Director General,
Sports Authority of India,
J.N.Stadium, Lodhi Road,
New Delhi.

2. The Regional Director,
Sports Authority of India,
Netaji Subhash Southern Centre,
Bangalore,

3. Joseph Thomas,
Basket Ball Coach
Sports Authority of India,
JDT, Islam Orphanage Committee,
Calicut

: Respondents

[By Advocate Mr.Govindh K.Bharathan (R 1 & 2)
Mr.Jaison V.L. (R-3)]

The application having been heard on 22.09.2003, the
Tribunal on 26.09.2003 delivered the following :

O R D E R

HON'BLE MR K.V.SACHIDANANDAN, JUDICIAL MEMBER

Aggrieved by the impugned order dated 30.06.2003
(Annexure A-2 transferring the applicant from Calicut to
Tellicherry, the applicant has filed this Original Application
seeking the following reliefs :-

- a) To quash and set aside Annexure A-2.
- b) Grant such further and other reliefs as the
nature and circumstance of the case may require.

..2/-

2. The applicant who is a Basket Ball Coach and the native of Coimbatore working under Sports Authority of India now working at Indoor Stadium, Calicut, was transferred to Calicut from Coimbatore on 29.07.2002 vide Annexure A-1 order. Mr. Joseph Thomas, another Basket Ball Coach, who completed more than six years at Indoor Stadium, Calicut, was accommodated at Calicut and the applicant was transferred to Tellicherry. It is submitted that the applicant was transferred to Indoor Stadium, Calicut only ten months back. Aggrieved by the said order, the Original Application is filed contenting that the applicant has got a very good track record and such frequent transfers will adversely affect professional and family life and public interest. The transfer is not justifiable.

3. Learned Counsel for respondents has filed a Counsel statement on 23.07.2003 on behalf of Respondents 1 and 2 and also filed a detailed reply statement subsequently on 25.07.2003 contending that several factors are to be involved in coaching Basket Ball team like personal rapport between the players and the coach. The 3rd respondent has got a good track record and is a reputed and competent coach. The scheme of coaching involves long term sustained efforts by the coaches. Taking into account this aspect, the 3rd respondent was put in charge of both STC Calicut and the JDT Islam Orphanage Committee, Calicut. In SAI, Tellicherry there is no Basket Ball coach at all and it would be the ideal place to train the new Basket Ball team. The impugned order was issued on administrative exigency and in the absence of sustainable allegations of malafide, it cannot be set aside or challenged.

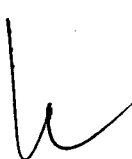
4. It is further averred that Calicut and Tellicherry is well connected with road and rail and is only 1 1/2 hours journey from Calicut. There is no malafides involved on the part of the respondents. The applicant is staying in one of the rooms of Sports Authority of India Training Centre, Calicut and his family is not at all with him. Respondents have also narrated in detail the poor performance of the applicant in coaching at Calicut and also that to project the merits of the 3rd respondent and his excellent performance at various competitions in National as well as International levels. They also submitted that the 3rd respondent is very much helpful in training the future promises of India at STC, Calicut. It has resulted in producing a large number of outstanding players like Bobit Mathew, Liju K. Abraham and Ullas Jose, who had represented the country in International competition. The 3rd respondent was assigned as Coach in the 52nd Junior National Basket Ball Championship held at Bhilai. Again, for the 53rd Junior National Basket Ball Championship held at Goa, the team came out with impressive performance and in furtherance he was selected for the National Zonal Basket Ball Coaching Camp at New Delhi. It is submitted that transfer order was passed on administrative exigencies. They also contended that during the period of service of the applicant, the inmates of STC, Calicut have not attained good performance because of the applicant's stubborn and recalcitrant attitude towards the inmates. In a well trained establishment, like STC training centre, the

rebellious attitude will certainly affect the future and fame of the Institution. It is submitted that SAI has received several complaints during his earlier postings. Therefore, it is submitted that there is no merit in the Original Application.

5. Applicant has filed rejoinder contending that all the averments and allegations made against the applicant is baseless. He has produced two documents to show his credibility and merit in the field of sports and submitted that the transfer order is vitiated by legal malafides and violative of Articles 14 and 16 of the Constitution.

6. Respondents 1 and 2 have filed additional reply statement further contending that the order of transfer was not passed as a measure of punishment but it was made only on administrative exigencies. The applicant received cash awards as a routine manner in the light of the circular Annexure R-2(k) which will reflect the caliber and track record of the coach.

7. Shri Sibi J Monipally, learned counsel appeared for the applicant and Shri Govind k. Bharathan, Learned counsel appeared for Respondents 1 & 2. Shri Jaison V.L, though appeared for R 3 did not file any reply statement.

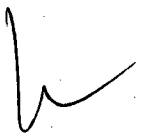


8. The question that comes for consideration of this Court in this Original Application is whether the impugned order of transfer of the applicant is justified or not. At the very outset, this court makes it clear that scope of interference in transfer matters on a judicial review is very much limited. In a reported case 1993 (2) LLJ 626(SC) UOI & Ors.Vs.S.L.Abbas it was observed by Hon'ble Supreme Court that " who should be transferred, where to be transferred" are matters for the appropriate authority to decide. In the absence of pleadings of malafides, it cannot be said to be violative of Articles 14 and 16 of the Constitution of India. In another case reported in 1999 (2) KLT 673 Rajan Vs. Director General of Police, the Hon'ble High Court of Kerala has held that " transfer can always be done in public interest". Therefore, in the normal course, as laid down in (1995) 3 SCC 270, State of Madhya Pradesh and Anr. Vs. S.S.Kourav & Ors., the Hon'ble Supreme Court has declared that it is for the administration to take up appropriate decision and such decision should not be challenged unless vitiated either by malafides or by extraneous considerations without any factual background. The Courts or Tribunals are not sitting as Appellate forum to decide transfer matters. Therefore, the issue of transfer in this case has to be evaluated with reference to the dictum laid down by the Apex Court that transfer is not a matter of right and it is within the exclusive domain of the executive. Applicant has not alleged malafides against the authorities in giving transfer to

the applicant. The only grievance in this O.A is that his transfer order was issued only to accommodate one Joseph Thomas, who has been there for six years in Calicut and the transfer of the applicant ,adversely affects his profession, family life and public interest.

9. It is pertinent to note that the scheme of coaching requires long term sustained efforts of the coaches who has got a good track record and should have a personal rapport between the players and the coach. Sports is a field of skill and creativity. Coaching and training are essential and inevitable in bringing up the young sports talents. The relationship between the coach and players must be cooperative, cordial and selfless. The coach has to act in many occasions as a guardian and he is a trustee and the relation must be healthy and smooth. If such is the case, the Coach's job is not merely an employment but full of creativity with devotion and sincerity. Therefore, the paramount consideration in bringing up the players in the field is encouragement, helping attitude and give a sense of security and a guardianship. Therefore, coaching has a vital role in the field of sports to improve the standards and quality of the young entrants.

10. On going through the pleadings put forth by the respondents it appears that the 3rd respondent had made an excellent performance in the National as well as International levels. Outstanding players like, Bobit Mathew, Liju K.Abraham and Ullas Jose are the creation and the babies of the 3rd



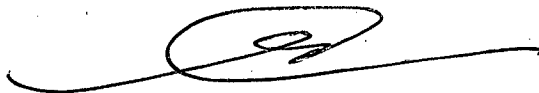
respondent. They acquired great skill and recognition in the field with the motivation and creativity of the 3rd respondent. This court is not sitting on judgment to assess the allegations mutually levelled each other since it is not germane to decide the issue in this case and is not good in the true sportsman spirit. But the fact remains that the 3rd respondent has become inevitable for Calicut office because he has brought up certain excellent players and according to the respondents he is doing a good job. This court is of the opinion that retaining the 3rd respondent at Calicut is the prerogative of the respondents in public interest. This does not mean that the applicant is poor in performance as alleged by the respondents. I find that the 3rd respondent has been retained at Calicut to give a new orientation to the players at Calicut whereas the respondents have posted the applicant at Tellicherry, which is not far away from Calicut where he can also prove his skill and ability. A sportsman must be able to take any task in the sports field and a mere transfer to Tellicherry, which is 60 Kmts from Calicut, will not adversely affect the family life as the applicant was alone staying in Calicut and he should have accepted the reality, took the challenge in the true sportsmanship and should not have come to this Court with such a grievance. I am of the opinion that this is against the sportsman spirit. Evaluating the situation, I find that prejudice will not be caused to the applicant in going to Tellicherry. It is within domain of the administration, to decide who should be retained in Calicut and

who should be transferred to Tellicherry. I also find no violation of any guidelines nor any discrimination. ~~Therefore,~~ Therefore, Articles 14 & 16 of the Constitution is not violated.

11. During the course of argument the applicant has produced a letter of request of Col. Diwakar Dogra, Madras Regimental Centre, Wellington (Nilgiris) for posting of Shri Parthipan (applicant) to Madras Regimental Centre, Wellington (Nilgiris) for 5 years vide reply letter dated 16.09.2003 by the Regional Director, SAI it is stated that "at present we have no provision to post SAI coaches for such assignments." But however, at the consent of the parties this court makes it clear that the applicant is at liberty to make appropriate representation to the concerned authority to get a transfer to Madras Regimental Centre, Wellington (Nilgiris) and if such a course of action gets materialised, this court will not come in the way. That is an independent action that the applicant can adopt which is not relevant in this O.A.

In the conspectus of facts and circumstances, I am of the view that there is no merit in the O.A and therefore, no interference is warranted by this Tribunal by way of judicial review. The Original Application is accordingly dismissed with no order as to costs. The Interim order dated 07.07.2003 stands automatically vacated.

Dated, the 26th September, 2003.



K.V.SACHIDANANDAN
JUDICIAL MEMBER

vs