

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A No.605/1994

CORAM: Tuesday this the 26th day of April, 1994.

HON'BLE MR.JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN

HON'BLE MR.P.V.VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

T.Hameed,  
Lab.Technician,  
Primary Health Centre,  
Amini.

.. Applicant

(By Advocate Mr.D.Sreekumar)

vs.

1. Union of India represented by the  
Secretary, Ministry of Health & Family Welfare,  
Central Secretariat, New Delhi.

2. The Administrator,  
Union Territory of Lakshadweep,  
Kavaratti.

3. The Director,  
Directorate of Medical & Health Services,  
Union Territory of Lakshadweep,  
Kavaratti.

4. Medical Officer,  
Primary Health Centre,  
Amini.

5. Sri Salmulabid,  
Lab Technician,  
Primary Health Centre, Kalpeni. .. Respondents

ORDER

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN:

Applicant challenges an order of transfer.(it is not produced). According to him, Annexure.A1 is a 'Presidential Order' and the Presidential Order cannot be violated as has been done by respondents. He relies on certain observations in the order in O.A.1420/91 to the effect that the circular in question is a Presidential Order and that:

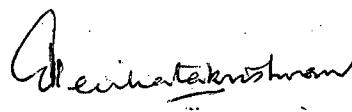
"This being a Presidential Order, the department is bound to observe it".

This Tribunal noticed that the 'Presidential order' is only a circular containing

guidelines. Guidelines do not confer any legally enforceable right, as found by the Supreme Court in Union of India vs. S.L.Abbas, AIR 1993 SC 2444. In the light of the decision of the Supreme Court, the aforesaid judgment is no longer good law. Quite apart from that Article 73 of the Constitution requires executive orders to be made in the name of the President of India. Every such order is not a Presidential Order, and the expression Presidential Order has a definite connotation in the constitutional scheme. We do not find our way to treat Annexure.A1 as a 'Presidential Order'.

2. Applicant has made a representation Annexure.A13(undated) before 1st respondent. 1st respondent may consider that, and pass such orders as it considers appropriate within three months from today. We see no justification to issue any other orders.
3. Application is disposed of with the aforesaid directions. No costs.

Dated the 26th April, 1994.



P.V.VENKATAKRISHNAN  
ADMINISTRATIVE MEMBER



CHETTUR SANKARAN NAIR(J)  
VICE CHAIRMAN