

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 67/2009.

this the 21st day of July, 2009

C O R A M

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

Mohammed Shaffi S.H.
Village Extension Officer Kadamat Island
Union Territory of Lakshadweep.Applicant

By Advocate Mr. M.V. Thampan

Vs.

- 1 Secretary (Services)
 U.T. Of Lakshadweep
 Kavarathy.
- 2 Administrator
 U.T. Of Lakshadweep
 Kavarathy.
- 3 The Sub Divisional Officer.
 U.T. Of Lakshadweep
 Kadamat
- 4 Abdul Sameen C.
 Village Extension Officer
 U.T. Of Lakshadweep, Chetlat.Respondents

By Advocate Mr. S. Radhakrishnan for R 1 to 3

The Application having been heard on 15.7.2009 the Tribunal delivered the following

O R D E R

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant challenges Annexure A-1 order dated 24.10.2008 transferring him from Kadamat to Chetlat and A-3 fax message dated

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22.1.09 to relieve him and directing him to report at the new place of posting.

2 The brief facts of the case are that the applicant, a native of Kadamath Island is working as Village Extension Officer at Kadamath Island itself w.e.f. 10.6.2005. He was originally posted at Kavarathy, later transferred to Minicoy, Kadamath and Chetlat Islands. The grievance of the applicant is that he was transferred to Chethlat by order dated 24.10.2008 (Annexure A-1) to accommodate the 4th respondent. The main grounds urged by the applicant are that as per the guidelines, the general transfer should be made during March-April of every year, the tenure period of three years is not over, there is no frequent transfer of Village Extension Officers in Lakshadweep the applicant alone is discriminated, and that the transfer adversely affects the construction of his house and the education of his son as there is no CBSE school in Chetlat Island.

3 In the reply statement, the respondents contended that the transfer of the applicant was issued in the public interest in the exigency of service to ensure that the transfer is implemented before the enforcement of model code of conduct. They submitted that transfer is an incidence of service and on completion of the tenure period, the employer is at liberty to transfer an employee. Such issues like transfer, place of posting etc. are in the domain of the employer. They denied any malafide intention in the transfer of the applicant.

4 The applicant filed rejoinder stating that the respondents while retaining a few Village Extension Officers in places of their choice from 1998, etc. the applicant alone is discriminated. He was legitimately expecting that his transfer will not be effected unless other Village

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Extension Officers who have completed more years at a single island have been transferred. He also submitted that neither the applicant nor the 4th respondent is interested in the transfer.

5 I have heard learned counsel appearing on both sides.

6 There is no dispute that the employee has no vested interest to stake claim to be posted at a particular place and it is the prerogative of the employer to transfer any employee to any place in the administrative exigency of work. As far as U.T. of Lakshadweep is concerned, there is a transfer policy which is not produced before us. The learned counsel for the applicant submitted that according to the policy, the minimum tenure period is fixed as three years. The applicant in his rejoinder has brought to our notice a list of five Village Extension Officers who are continuing in the place of posting for long duration. The respondents have not controverted the submission of the applicant in the rejoinder.

7 True, transfer is an incidence of service. It is for the Administration to take right and proper decisions and ordinarily the Courts shall not interfere in such decision of the Administration unless they are violative either by malafide or by extraneous consideration. In this case, it is seen that mutual transfer of the applicant from Kadmath to Chetlat and vice versa alone is ordered, it is not a general rotational transfer. It is a fact that a few of the Village Extension Officers are not disturbed for the last so many years.

8 As per guidelines on rotational transfer issued by Government of India, the transfer orders are to be issued not later than the month of April so that relief can be arranged in May. This will enable the

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employees to shift their families, secure admission in schools, etc. In short, by the time the academic year starts in June, the employee along with his family is well settled and there is no disruption to the education of his wards. The employees are permitted to submit a choice of three stations, out of the vacancies notified or request for retention for one more year, in the same station on personal grounds. All these are duly considered by the Administration. Only under special circumstances like promotion, transfer in the middle of an academic year is ordered. The circumstances which warranted a transfer in mid academic year has not been stated by the respondents. Due to elections, all transfers were ordered to be effected after 2009. It is understood that Lakshadweep Administration permits the employees to be retained in the same station till September, i.e till Monsoon is over. That leaves only a few months in the current financial year. In this case, the Tribunal by its order dated 27.2.2009 restrained the respondents from acting on the transfer order at Annexure A-1 and in case R-4 has been relieved to accommodate him in a suitable place.

9. In this view of the matter and in the facts and circumstances of the case, the interest of justice will be met if the respondents are directed to keep in abeyance the Annexure A-1 transfer orders of the applicant to Chetlat and the 4th respondent to Kadamath till 31.3.2010. Accordingly I do so. The interim order dated 27.2.2009 will continue till that date. The O.A. is disposed of as above. No costs.

Dated 21st July, 2009


K. NOORJEHAN
ADMINISTRATIVE MEMBER

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