

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 93 OF 2013

Wednesday, this the 22nd day of January, 2014

CORAM:

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

S.Udaya Komalan
Assistant
ESIC Hospital, Paripally
Kollam – 691 574

... Applicant

(By Advocate Mr.Unniraja T.I)

versus

1. Union of India represented by Secretary
Ministry of Labour
Central Secretariat
New Delhi – 110 002
2. Director General
Employees State Insurance Corporation
Headquarters, Panchdeep Bhawan
CIG Marg, New Delhi – 110 002
3. Regional Director
Regional Office (Kerala)
Employees State Insurance Corporation
Panchdeep Bhawan, North Swaraj Round
Trichur – 680 020
4. Deputy Director
Sub Regional Office
Employees State Insurance Corporation
Near Jawahar Bala Bhawan
Kollam – 691 001
5. The Medical Superintendent
Employees State Insurance Corporation Hospital
Paripally, Kollam
Kerala – 691 574 ... Respondents

(By Advocate Mr.Sunil Jacob Jose, SCGSC (R-1)
Advocate Mr.T.V.Ajayakumar (R2-5))

The application having been heard on 22.01.2014, the Tribunal
on the same day delivered the following:



ORDER

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

Applicant who is stated to be working in the cadre of Assistant in the Employees State Insurance Corporation has filed this Original Application impugning Annexure A-6 order by which he has been transferred from the Employees' State Insurance Corporation Hospital at Paripally to the Sub Regional Office, Kollam. It is contended by the applicant that his transfer is totally arbitrary and against the transfer norms.

2. However, it is contended by the respondents that going by the transfer norms the applicant is liable to be transferred on completion of three years at Paripally and therefore Annexure A-6 order issued on January 24, 2013 is perfectly legal and valid. It is further pointed out that the station to which the applicant has now been transferred is nearer to his residence as compared to the distance he had to cover while he was working at Paripally.
3. Learned counsel for the applicant contends that Annexure A-6 order has been issued with vengeance since the respondents did not approve of his Trade Union activities. It is further pointed out that the respondents were not greatly amused by the action of the applicant in seeking certain information under the Right to Information Act about the inaction on the written request made by him seeking appointment as Caretaker in the hospital. Still further, he had also questioned the propriety of the irregular posting of one Rahim at Paripally hospital. All these actions of the applicant had infuriated the respondents and it was solely because of the above reasons he was transferred to Kollam.



4. It is contended by learned counsel for the respondents that Annexure A-6 order transferring the applicant from Paripally to Sub Regional Office, Kollam was issued as a routine administrative action since the applicant had completed three years of service at Paripally. Two other Assistants were also transferred along with the applicant as could be seen from Annexure A-6 order itself. But according to the applicant he had completed hardly two years at Paripally after his absorption in the service of the Corporation in March, 2011.

5. It is pertinent to note that the applicant had been working in the same hospital since October, 2009 though at that point of time the hospital was under the control of State Government. After the hospital was taken over by the Employees State Insurance Corporation, applicant has continued in the same hospital and in the same post on his absorption in the service of the Corporation. According to the applicant, his services in the Corporation could be reckoned only from the date of his absorption in March 2011 and therefore he could not have been transferred till he completed three years of service at Paripally after his absorption. I am unable to agree. It may be true that the applicant got absorbed in the Employees State Insurance Corporation only in March 2011. But admittedly, he had been working at Paripally ever since October, 2009 even before he was absorbed in the Corporation. In that view of the matter, I do not find any illegality or irregularity in Annexure A-6 order of transfer.

6. It is trite that guidelines for transfer are not statutory and are meant only for the guidance of the transferring authority. The guidelines issued by the Government from time to time are not exhaustive and it is open to the

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authority concerned to effect transfers taking into consideration circumstance not covered by the guidelines. (See *Nirmalandan vs. Dinakaran (1989) 1 KLT 126*). In *Union of India and others Vs. S.L.Abbas; JT 1993 (3) SC 678*, it has been held that guidelines for transfer do not confer any legal enforceable right upon the Government employee. In *State of U.P Vs. Gobardhan Lal ; (2004) 11 SCC 402* the Apex Court has held that a Government servant has no vested right to remain posted at a place of his choice nor can he insist that he can be posted in one place or other.

7. The other contention raised by the applicant is that he ought to have been given the charge of Caretaker at Paripally hospital. His grievance is that one Vijayan who is junior to him has been appointed as Caretaker overlooking the seniority of three seniors including him. It is true that after the transfer of the applicant from Paripally to Kollam, Shri Vijayan has been given the additional duty of Caretaker. The applicant has not produced any material to show that seniority is the sole criterion for giving charge of Caretaker.

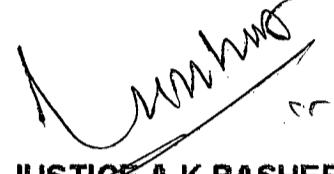
8. In my view, the above issue has no relevance in the facts and circumstance of this case. Admittedly applicant has been working at Kollam pursuant to Annexure A-6 order ever since January, 2013, which is nearer to his residence as compared to the distance he had to cover while he was working at Paripally. In any view of the matter, I do not find any justifiable reason to interfere with Annexure A-6 order of transfer. There is no merit in any of the contentions raised by the applicant.



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9. Original Application fails and it is accordingly **dismissed**. No costs.

Dated, the 22nd January, 2014



JUSTICE A.K.BASHEER
JUDICIAL MEMBER

VS