

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

O.A.No.115/2002

Friday this the 1st day of March, 2002

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN  
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

Valsa Thomas, aged 37 years  
W/o K.A.Thomas,  
Lower Division Clerk,  
Chief Engineer (Navy)  
Kochi.4 residing at Kaitharam House,  
Nettoor PO.

..Applicant

(By Advocate Mr.K.S.Bahuleyan)

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1. Union of India, represented by  
the Secretary, Ministry of Defence,  
New Delhi.
2. Chief Engineer, Headquarters,  
Southern Command, Pune.1.
3. Chief Engineer (Navy)  
Naval base Post Office,  
Kochi.4.
4. Smt.Sunitha Haridas,  
Lower Division Clerk,  
Chief Engineer (Navy)  
Kochi.682004.

...Respondents

(By Advocate Mr.R.Prasanthkumar (R.1to3)

The application having been heard on 1.3.2002, the Tribunal  
on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant, a Lower Division Clerk in the  
office of the Chief Engineer, Navy, Kochi was by an order  
dated 21.8.99 transferred and posted to the Office of  
Garrison Engineer, Gomantak, Vasco. However, this transfer  
was deferred on her representation. Later by the impugned  
order dated 21.12.2001 (A9) she was asked to report to the

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Garrison Engineer, Gomantak, Vasco and the date of striking off of strength from Kochi was shown as 31.1.2002. The applicant made a representation for cancellation of the movement order. While so the Annexure.All dated 1.1.2002 was issued altering the date of striking off of applicant's name as 8.1.2002. Alleging that the impugned movement order directing her to report to Vasco during the midst of the academic year while the 4th respondent who had longer stay in Kochi is arbitrary, discriminatory and opposed to the guidelines in regard to transfer, the applicant has filed this application seeking to quash Annexures.A9 and A.11, for a declaration that the transfer of the applicant from Kochi complex while retaining Smt.Sunita Haridas, the 4th respondent having longer stay at Kochi complex is illegal and as such is not maintainable and for such other reliefs as is deemed fit. It is alleged in the application that the representation submitted by the applicant for cancellation or deferment of transfer has not yet been disposed of and therefore the movement order is liable to be set aside.

2. Learned ACGSC Shri R.Prasanthkumar appearing for Respondents 1 to 3 stated that the applicant's transfer has been deferred for more than two years on her request, that in the exigencies of service further deferment is not possible and that the transfer of the 4th respondent was cancelled by the respondents considering her representation. As the transfer is made only in public interest in the exigencies of service the counsel states that the Tribunal may not interfere.

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3. On a scrutiny of the entire materials available on record and on hearing the learned counsel on either side, we do not find any arbitrariness or malafides in the action of the respondents in directing the applicant to report to Vasco, a place to which she had been transferred more than two years back. She was retained in Kochi considering her representation for two years. In her representation the applicant has expressed her gratitude for having deferred her transfer for two years. This shows that not only there had not been any arbitrariness or hostile discrimination against her but also that due sympathy was shown towards her. That by cancelling the transfer of the 4th respondent who had longer stay in Kochi than the applicant, guidelines have been violated and therefore, the impugned orders are liable to be strike down has no force at all, because the competent authority has the discretion to cancel the transfer of an official if it is satisfied that on consideration of relevant facts and circumstances it is just and proper to do so. As no malafides has been alleged, the action of the competent authority in cancelling the transfer of the 4th respondent and to ask the applicant to move to Vasco cannot be faulted. That the movement order has been issued in the midst of the academic year also does not vitiate the order as it was issued to meet the exigencies of service. Pitted against administrative exigencies personal convenience and inconvenience can have only second place. Paramount consideration is public interest. The applicant whose transfer ordered in 1999 has been kept in abeyance for more than two years on her request is not justified in

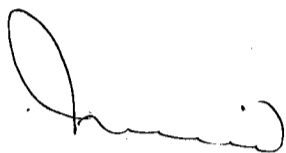
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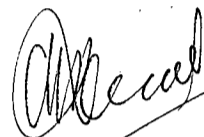
claiming that she should not be moved out of Kochi even now. Guidelines do not confer on an employee with a right to be enforced in court for a posting to a particular place or retention in a place.

4. In the result, in the light of what is stated above, the application is rejected under Section 19(3) of the Administrative Tribunals Act, 1985.

Dated the 1st day of March, 2002



T.N.T. NAYAR  
ADMINISTRATIVE MEMBER



A.V. HARIDASAN  
VICE CHAIRMAN

(s)

A P P E N D I X

Applicant's Annexures:

1. A-1 : True copy of order P.O.No.99/99 dt.21.8.99 issued by the 2nd respondent.
2. A-2 : True copy of certificate of Sterilization operation dt.18.12.2001 issued by Lakshmi Hospital to applicant.
3. A-3 : True copy of leave application submitted by applicant dt.14.12.2001.
4. A-4 : True copy of Medical Certificate dt.28.12.01 issued to the applicant, issued by Dr.S.Lalithambika.
5. A-5 : True copy of application dt.28.12.2001 submitted by applicant before the 3rd respondent.
6. A-6 : True copy of leave application dt.26.1.02 submitted by applicant before the 3rd respondent.
7. A-7 : True copy of Medical certificate dt.26.1.02 issued to the applicant by Dr.S.Lalithambika.
8. A-8 : True copy of letter No.140110/7841/E-10 dtd.27.12.01 issued by 3rd respondent to the applicant.
9. A-9 : True copy of office order No.325 dt.21.12.01 of the 3rd respondent.
10. A-10: True copy of letter No.140110/7842-A/E10 dt.1.1.02 of the 3rd respondent to the applicant.
11. A-11: True copy of office order No.01 dt.1.1.02 of 3rd respondent.
12. A-12: True copy of request letter dt.20.12.01 submitted by the applicant addressed to the 2nd respondent.
13. A-13: True copy of letter dt.7.1.02 submitted by the applicant to the 2nd respondent.
14. A-14: True copy of order No.132402/98/LDC/392/EIB(S) dt. 5.3.01 of the 2nd respondent to the 3rd respondent.
15. A-15: True copy of the list of personnel serving in Kochi Complex showing the station seniority.

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5.3.02