

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

ORIGINAL APPLICATION NO:209/2006

Monday this 24th day of April, 2006.

CORAM:

**HON'BLE SHRI N.RAMAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE SHRI GEORGE PARACKEN, JUDICIAL MEMBER**

Devika P.P. D/o.Late K.K.Venugopal
working as Salesman,
Integrated Fisheries Project, Cochin-682 016. ... Applicant

By Advocate Shri C.J.Joy

V/s.

1. Director-in-Charge
Integrated Fisheries Project,
Cochin - 16.
2. Deputy Director,
Processing and Marketing,
Integrated Fisheries Project,
Cochin - 16.
3. Union of India, represented by its Secretary,
Ministry of Agriculture,
Department of Animal Husbandry and
Dairying, Krishy Bhavan, New Delhi.
4. Smt.Lekha R,
Salesman, Marketing Section,
Integrated Fisheries Project, Cochin-16. ... Respondents

By Advocate Shri TPM Ibrahim Khan SCGSC

(ORDER)

Per Shri N.Ramakrishnan, Administrative Member

This is an application in which the applicant is challenging the
transfer order vide Annexure A-9 to Palai.



The challenge is on grounds that employees junior to her namely fourth respondent has been retained, no public interest justifies the said transfer order, this is violation of the rules of service and guidelines, the transfer would cause untold misery and hardship to the applicant and this order infact is a re-production of Annexure a-4 which was challenged earlier before this Tribunal.

2. It is seen that this Tribunal, in the Annexure A=6 order dated 6/1/2006 in OA 401/2005 considered the same issue. All the points of present OA were generally covered in the earlier OA also. It was observed in that OA that transfer of the applicant, during the mid academic year was not in true spirit of judgment of the Hon'ble Supreme Court. The Tribunal set aside the Annexure A-4 order, directing the respondents to issue appropriate orders in tune with the observations contained in the order retaining the applicant till the end of the academic year. Now the current academic year is admittedly over. The applicant seeks the intervention of the Tribunal for adjudicating on the same issue, which were raised in the earlier OA. The Hon'ble apex Court has laid down the law in this regard that normally transfer orders should not be interfered with in an adjudicatory process except when they are issued by way of malafide exercise of power, an incompetent authority has issued the transfer order or the transfer orders are against any law/rule in 2005 SCC (L&S) 55. The applicant has no case that the latter two contingencies cover his case. However, he would argue that this is a case of malafide exercise of power, possibly because the applicant had sought intervention of this Tribunal in



challenging her earlier transfer order. We are unable to accept the contention. Something more than mere possibility of explanation of malafide should be led in evidence for persuading this tribunal to actively consider such averment. It is reiterated that practically all the grounds had been considered by this Tribunal in the earlier OA 401/2005. The transfer orders were set aside in that OA, only because of having been made during the mid academic year. Now that such a ground is non existent, there is no need for intervention by this Tribunal in view of the law laid down by the Hon. Apex court as referred to earlier.

Hence the OA is dismissed. No costs.


(GEORGE PARACKEN)
JUDICIAL MEMBER


(N. RAMAKRISHNAN)
ADMINISTRATIVE MEMEBER

24/4/2006

abp