

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

OA No.276/2003

Friday this the 11th day of April, 2003.

C O R A M

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

U.P.Hamza Koya  
U.D.Clerk  
Office of the Deputy Director  
Supply and Transport  
Lakshadweep Office  
Wellington Island  
Kochi.

Applicant

(By advocate Mr.Abdul Lattif)

Versus

1. Union of India represented by  
Administrator, Union Territory  
of Lakshadweep, Secretariat  
Kavaratti.
2. The Secretary (Administration)  
Union Territory of Lakshadweep  
Secretariat, Kavaratti.
3. The Deputy Director  
Supply and Transport  
Lakshadweep Office  
Wellington Island  
Kochi.

Respondents

(By advocate Mr.S.Radhakrishnan)

The application having been heard on 11th April, 2003, the Tribunal on the same day delivered the following:

O R D E R

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


Applicant, an Upper Division Clerk in the office of the Deputy Director of Supply and Transport, Lakshadweep office, Wellington Island, Kochi, has filed this application challenging Annexure A-1 order dated 1.4.2003 to the extent of his transfer from Wellington Island, Kochi to Kavaratti. It is alleged in the application that the applicant is suffering from various ailments and his presence in Kochi is necessary for continuation of his treatment and that his children are studying in C.C.P.L.M.Anglo Indian High School, Thevara, which is following Kerala Syllabus

English Medium. The transfer of the applicant from Kochi to Kavaratti would cause great hardship, alleges the applicant. It has been further alleged that there are Anila Khilari, Divya and Sudha who had undisturbed longer stay than the applicant while transferring him. The applicant further alleges that his present transfer from Kochi to Kavaratti has become necessary to accommodate one K.F.Ayesha who was the 4th respondent in OA No.34 of 2003 filed by C.O.Saramma and the action of the respondents is in fact contrary to the directions contained in the order of the Tribunal in the said OA as transfers were to be effected on the basis of length of stay. Alleging that the action of the respondents in transferring the applicant from Kochi to Kavaratti is arbitrary and irrational, the applicant seeks to have the impugned order set aside to the extent it affects him. Applicant has also filed an MA for stay of A-4 order dated 4.4.2003 by which he has been relieved.

2. Respondents in their reply statement contend that the applicant was transferred from Kochi to Kavaratti as he has already completed the tenure of 2 years a year before and as the transfer became necessary in the exigency of service. They contend that although Anila Khilari, Divya and Sudha had longer stay at Kochi than the applicant, Anila being a mental patient and Sudha being an appointee on compassionate ground on the death of her husband in 1997 and also having developed symptoms of cancer, they could not be transferred and Divya being the wife of an officer posted at Kochi had got to be retained. Since the applicant has completed his tenure at Kochi and English medium


schools are available at Kavaratti, transfer of the applicant from Kochi to Kavaratti would not cause any hardship to him and as the action having been taken in public interest, the respondents plead that the same is not arbitrary.

3. I have heard the learned counsel on either side. Sh. Abdul Lattif, the learned counsel of the applicant invited my attention to the order of the Tribunal in OA 34/03 wherein it was directed that transfer should be made on the basis of length of service, and argued that in the case of the applicant, this principle, though equally applicable, has not been taken note of. The counsel further argued that choosing the applicant for transfer, leaving other persons with longer stay, while the applicant has got his personal problems, is arbitrary and irrational. Sh. S.Radhakrishnan, the learned counsel of the respondents, submitted that Anila and Sudha were retained at Kochi on health grounds and Sudha was not transferred as her husband is posted in Kochi. The applicant having completed his tenure at Kochi has been transferred bonafide in public interest, argued the counsel. He further argued that no serious prejudice is caused to the applicant as English Medium Kerala Pattern School is available at Kavaratty and the applicant has no ailment which cannot be treated in Kavaratty. He argued that as there is no allegation of malafides or violation of statutory rules the Tribunal may not interfere in the routine administrative order.



4. On a careful scrutiny of the material placed on record and on a consideration of the arguments raised by the counsel on either side, I find no reason for judicial intervention in the matter. The retention of Anila, Sudha and Divya for the reasons mentioned in the reply statement, though they had longer stay than the applicant, cannot be faulted. The competent authority has to take into account not only the length of service but also other personal problems of the officials and issue orders of transfer on an overall assessment of the comparative hardship and render justice. The need of the applicant to be with his children who are studying in Kerala pattern English Medium School can well be taken care of as Kerala pattern English Medium Schools are available in Kavaratti which is the Headquarters of Lakshadweep Administration. In the case of C.O.Saramma, the applicant in OA No.34/03, her transfer was interfered with because she had infertility problem for which she was undergoing special treatment. No such situation exists in the case of the applicant as the applicant is not suffering from any illness for which treatment cannot be had at Kavaratty.

5. In the light of what is stated above, finding no infirmity in the impugned order, I dismiss this application, leaving the parties to bear their respective costs.



6. The applicant may now join at Kavaratti on the basis of the impugned order. The period during which he has been out of service i.e. 2.4.03 and the date on which he joins there, in excess of the joining time, shall be regularized by grant of eligible leave by the respondents.

Dated 11th April, 2003.



A.V.HARIDASAN  
VICE CHAIRMAN

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