

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.367/04

Monday this the 14th day of June 2004

C O R A M :

HON'BLE MR. H.P.DAS, ADMINISTRATIVE MEMBER

Wilson T Mathew,  
S/o.P.T.Mathew,  
Scientist (Computer Application in Agriculture),  
Central Marine Fisheries Research Institute,  
Post Box No.1603, Kochi - 18. Applicant

(By Advocate Mr.P.V.Mohanan)

Versus

1. The Director General,  
Indian Council of Agricultural Research,  
Krishi Bhavan, New Delhi.
2. The Director,  
Central Marine Fisheries Research Institute,  
Post Box No.1603, Kochi - 18. Respondents

(By Advocate Mr.P.Jacob Varghese)

This application having been heard on 14th June 2004 the Tribunal on the same day delivered the following :

O R D E R

HON'BLE MR. H.P.DAS, ADMINISTRATIVE MEMBER

The applicant is a Scientist in Computer Application at the Central Marine Fisheries Research Institute, Kochi. He was transferred to the Central Marine Fisheries Research Institute, Chennai by the impugned order dated 14.5.2004 (Annexure A-1). It is the contention of the applicant that he should have been allowed to continue as Scientist in Computer Application at the CMFRI, Kochi to complete the project entrusted to him and where he was a co-ordinator. It is the contention of the respondents that at the time of appointment itself the applicant had undertaken all India transfer liability and the institute is perfectly within its right in giving a placement to the applicant

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by way of transfer to a place where he would be more suitable at a particular juncture of time. The respondents do not think the continued presence of the applicant at the Kochi Institute would in any manner be contributing to the work of the ICAR in a more profitable way. It is their perception that the right opportunity existed for the applicant at Chennai where a new programme is being developed and the expertise of the applicant would be put to better use. Learned counsel for the applicant invited my attention to the transfer guidelines incorporated in the transfer policy which provides that while transferring a scientist consideration should be given to research work so that no programme is delayed. It was the contention of the learned counsel of the applicant that by removing the applicant at a stage when the research work was in progress the programme was likely to be disrupted and since he had expertise in that particular area of work and no substitute was available at hand his transfer to a Centre where an entirely different work was to be discharged by him could not be strictly in public interest. It was the contention of the learned counsel for the respondents that the same guideline provides for posting of Scientists preferably to regional centres. The work that was entrusted to the applicant was in no way inferior in nature and that it was the considered opinion of the empowered committee to decide on the transfer that the officer would be better utilised in Chennai and therefore there was neither any violation of transfer guidelines or policy in transferring the applicant to Chennai from Kochi.

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2. Two questions emerge. One as to whether the transfer order was legally invalid in any manner and secondly if any of the acquired rights had been taken away. The learned counsel for the applicant very graciously conceded that All India Transfer Liability came with the appointment of the Government servant and that there was no legal non-conformity in the transfer order. He argued that his rights arose basically from the transfer guidelines and again from the fact that the post at Chennai was not a sanctioned post and stated that his transfer from a sanctioned post to a unsanctioned post was not in public interest. I find these arguments unacceptable for the reason that it is not for the employee to go into the reasons of his continuance in a particular place or post. Further the applicant cannot make a case of acquired rights from an administrative instruction which has been directed at the Administrator of the Institute and not at him. There having been no legal non-conformity in the transfer order, there having been no rights acquired and there having been no malafide in the process of application of the rules I find no substance in the application and hence the application is dismissed at the admission stage itself.

(Dated the 14th day of June 2004)

14.6.2004

H.P.DAS  
ADMINISTRATIVE MEMBER

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