

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 373 OF 2011

Tuesday, this the 26th day of July, 2011

CORAM:

HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER

O.G.Hassan
Agricultural Officer, Kadamath
U.T.of Lakshadweep
Residing at Rajeena Manzil
Kadamath Island

... Applicant

(By Advocate Mr.P.V.Mohanan)

versus

1. The Administrator
U.T of Lakshadweep,
Kavaratti – 682 555
2. The Secretary (Agriculture)
U.T of Lakshadweep,
Kavaratti – 682 555
3. The Director
Directorate of Agriculture
U.T of Lakshadweep,
Kavaratti – 682 555

... Respondents

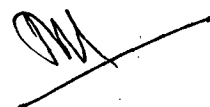
(By Advocate Mr. S.Radhakrishnan)

The application having been heard on 26.07.2011, the Tribunal on the same day delivered the following:

ORDER

HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER

The applicant is an Agricultural Officer working at Kadamath. He belongs to Scheduled Tribe community. By Annexure A-3 he is transferred on a temporary / stop gap arrangement to the Directorate of Agriculture, Kavaratti as Agricultural Officer purely on working arrangement basis. He is aggrieved by Annexure A-3 order. His main contention is that this is not a case of permanent transfer nor even a temporary transfer. According to



him, this transfer is on a working arrangement and that too against a non existing vacancy. He is continuing to have his lien at Kadamath and is drawing his pay and other benefits from Kadamath only. Kavaratti is a place situated far away from Kadamath and at least he will have to travel more than six hours. Therefore, he has necessarily to stay at Kavaratti to discharge his duties as Agricultural Officer attached to Kavaratti. But according to him, it is a transfer on work arrangement basis and he will not be allotted any quarters either. Thus according to him, this is a typical transfer and he will not get any TA and DA. According to him, this is a transfer not governed by rules and that too to create detriment and disadvantage to the applicant. Annexure A-1 is the representation made by the applicant requesting for a transfer to Amini and without considering the request, the present transfer is made.

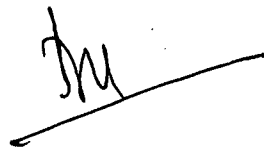
2. The respondents on the other hand would contend that Secretary, Agricultural Department has issued a temporary transfer order without shifting the post from Kadamath as an interim measure. The Directorate of Agriculture is facing shortage of technical hands in the absence of a regular Director of Agriculture, Coconut Development Officer and Plant Protection Officer which are the key and prime posts of the Department. The first two key posts are lying vacant since 1997 and 1998 respectively and the post of Plant Protection Officer is retained at Androth, but the incumbent is allowed to work in the Directorate on work arrangement basis in consideration of the facts that he is the senior most officer of the Department. In the above circumstances, considering all aspects of the smooth functioning of the Department, the transfer is made. He has also stated of better treatment facilities at Headquarters, Kavaratti.



change as per his request, fulfillment of the urgent needs of the Department at the beginning of the financial year etc. that the applicant is transferred.

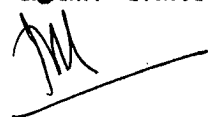
3. The substance of the contentions of the respondents is that on health grounds he has sought for a transfer to Amini. The applicant is given the transfer on work arrangement basis to Kadamath, where all treatment facilities are available. Secondly, the transfer is necessitated in the exigencies of administration and that too, on temporary basis only. There is no allegation or mala fides and hence according to the respondents, in the light of the decision of the Apex Court, there is hardly any reason for interference by a Court of law.

4. I have heard both sides. The Apex Court held in **State of UP & Ors. v. Gobardhan Lal, AIR 2004 SC 2165**, "a challenge to an order of transfer should normally be eschewed and should not be countenanced by the Courts or Tribunals as though they are Appellate Authorities over such orders. which could assess the niceties of the administrative needs and requirements of the situation concerned. This is for the reason that Courts or Tribunals cannot substitute their own decisions in the matter of transfer for that of competent authorities of the State and even allegations of mala fides when made must be such as to inspire confidence in the Court or are based on concrete materials and ought not to be entertained on the mere making of it or on consideration borne out of conjectures or surmises and except for strong and convincing reasons. No interference could ordinarily be made with an order of transfer."



5. No doubt, the requirement of Agricultural Officer at Kavaratti is a matter which the respondents alone can decide. That in the exigencies of administration, the services of the persons like the applicant might be required at a particular station either on permanent or temporary basis. Since there is no post available at Kavaratti, he is transferred on a working arrangement basis retaining his lien at Headquarters at Kadamath. At the same time, the applicant being an ailing person and he has already sought for a transfer to Amini, which according to the respondents, will be met by the transfer which provides all necessary treatment facilities. But then whether he will be entitled for the usual benefits of accommodation of quarters or travel benefits is not made clear in the reply statement. Counsel for applicant placing reliance on SR 114, GOI (2) submits that in all cases of transfers for short periods not exceeding 180 days, the journey from Headquarters to the station of deputation and back will be treated as on tour and DA granted for the first 180 days only. If a transfer originally made for a period more than 180 days is reduced to 180 days or less later, the TA claim originally allowed should not be changed to the disadvantage of the official. If a temporary transfer originally made for a period of 180 days or less is later extended beyond 180 days, the TA already drawn shall be adjusted in the transfer TA claim. Transfer means the movement of an employee from one Headquarters station in which he is employed to another such station, either to take up the duties of a new post, or in consequence of a change of his headquarters.

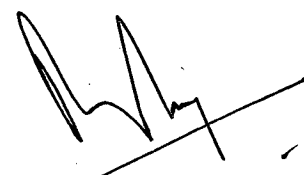
6. Even though it is contended that one post of Agricultural Officer was created in the Directorate of Agriculture at Kadamath in 1987 and the post of Plant Protection Officer, Kadamath was again shifted to the



Directorate Kavaratti for the convenience of the Department functioning. That means, the post which was earlier sanctioned in 1983 has since been shifted in 1987 to Kadamath. As such, there is no post at present at Kavaratti. Since the respondents wants the services of the applicant, being a senior officer at Kavaratti in the particular facts and circumstances of the case, he should not be deprived of the usual benefit attached to a temporary transfer. Since it is stated that the transfer is only for a short period, depending upon the period for which he is retained at Kavaratti he will be entitled for the relative benefits in accordance with the rules. In case a representation is made in this regard, the same shall be considered favourably with due regard to the fact that the applicant being a senior officer who is retained at Kadamath, on a temporary work arrangement basis. This type of transfer though not liable to be interfered with shall not deprive the applicant of the benefit, had he been given a temporary transfer. In the result, even though this Court is not interfering with the order of transfer, we direct the 1st respondent to consider the case of the applicant for the benefits attached to a temporary transfer and pass appropriate orders within a period of four weeks after the receipt of the representation, is made by the applicant within a period of three weeks from today.

7. OA is **allowed** to the above extent. No costs.

Dated, the 26th July, 2011.



JUSTICE P.R. RAMAN
JUDICIAL MEMBER