

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.393/2012

Thursday, this the 24th day of October, 2013

C O R A M :

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

Naseemabi P.K

Assistant Executive

Lakshadweep Information Technology Services Society, Kadmat

Residing at Purakkad House, Kadmath Island

U.T of Lakshadweep

Pin – 682 556

- Applicant

(By Advocate Mr.Arunraj.S)

Versus

1. **The Administrator**
Union Territory of Lakshadweep
Kavaratti – 682 555
 2. **The Secretary (Information Technology)**
Lakshadweep Information Technology Services Society
Kavaratti – 682 555
UT of Lakshadweep
 3. **The Vice Chairman**
Lakshadweep Information Technology Services Society
Kavaratti – 682 555
UT of Lakshadweep
 4. **The Director**
Lakshadweep Information Technology Services Society
Kavaratti – 682 555
UT of Lakshadweep
 5. **Accounts Officer**
Lakshadweep Information Technology Services Society
Kavaratti – 682 555
UT of Lakshadweep
 6. **Mohammad Shafi Quraishi P.P.S**
Assistant Executive, Kiltan – 682 554
Lakshadweep Information Technology Services Society
UT of Lakshadweep
 7. **Mohammad Shameel S.V**
Assistant Executive, Androth – 682 556
Lakshadweep Information Technology Services Society
UT of Lakshadweep
- Respondents

(By Advocate Mr.S.Radhakrishnan for R1-5)

This application having been heard on 21st October, 2013 this Tribunal on 24.10.13.. day delivered the following :-

ORDER

BY HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

1. The applicant's grievance in this Original Application is against Annexure A-1 impugned order dated 07.05.2012 transferring her from the present place of posting at Kadmat to Kiltan. According to the said order it has been issued on the basis of a request of Mr.Mohammed Shafi Quraishi for his transfer from Kiltan to Androth. While acceding to his request Mr.Mohammed Shameel S.V from Androth was transferred to Kadmat and the applicant from Kadmat to Kiltan. The brief facts of the case are that the applicant has been working as an Assistant Executive in the Lakshadweep Information Technology Services Society (LITSS for short) at Kadmat on contract basis. She made Annexure A-2 representation dated 09.05.2012 against the aforesaid order of transfer stating that being a woman employee, she is safe and secure in her own native island of Kadmat and Shri.Mohammed Shameel S.V, though a native of Androth island, it is immaterial for him to be posted to any other island. She has, therefore, submitted that instead of posting her at Kiltan, Shri Mohammed Shameel could have been posted there so that there will not be dislocation with regard to her present posting at Kadmat. In her subsequent representation dated 16.05.2012, again she has requested the respondents to retain her in Kadmat itself on the ground that being a woman, it is difficult for her to find an accommodation in a different island as no government accommodation is provided to contract employees. In this Original Application, she has also taken the ground that she is a married woman and her husband is working in Lakshadweep Water Management Project, Kadmat under the Department of

Science and Technology in Kadmat itself and her 11 years old son who is suffering from acute tonsillitis and undergoing treatment for the same at Kadmat, is studying in Vllth Standard in the Senior Basic School at Kadmat. Shri Arunraj.S, the learned counsel for the applicant has also submitted that when both husband and wife are working in the government, it is also the policy of the Government to post them at the same place as far as possible. But in this case, the respondents are seperating them from the place where they are already posted and working.

2. The respondents in their reply statement submitted that the transfer of the applicant was due to the fact that she is the sister of Smt.Naseebabi, the Village Level Entrepreneur Operator for Common Service Centre (CSC for short) at Kadmat appointed by LITSS. The Assistant Executive of LITSS is expected to monitor the entire CSC Operators in their respective islands and it is based on the report certified by Assistant Executive, payments are made by the LITSS to those operators for their services. One of the important services being delivered by the CSC is to conduct e-Literacy class for all willing citizens from their respective areas for which certain amount is paid by the LITSS to them. Therefore, it was in the interest of fair play and transparency that the applicant who is working as Assistant Executive in Kadmat should be transferred from there to some other island. However, they have submitted that, considering the fact that she is a married woman with an 11 year old son, she was shifted from Kadmat to the nearest possible island of Kiltan which is just 40 Kms away from Kadmat.

3. The applicant has filed rejoinder to the aforesaid reply of the respondents stating that the reason given by the respondents for transferring her is not at all relevant in as much as there was no restriction to the relatives of the

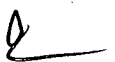
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candidates working in the department for setting up and running CSC for the various services to be provided to Lakshadweep under e-mode. She has also stated that the respondents have purposely did not put forth any restriction that any candidate whose relatives are working in the department are not entitled to apply for the said service for the simple reason that in Lakshadweep island, most of the people are some way or the other related and the department wanted Local Enterprenuers to come forward, invest and set up CSC in the island. If there were any such restriction, her sister herself would not have applied for the same. She has also refuted the contention of the respondents that Assistant Executives are responsible for payment to CSC. On the other hand, she contended that the SDO/DC is the concerned officer to approve the works done by the Village Enterprenuers and they are to issue the certificate of completion of data collection by the CSC in order to enable the Village Enterprenuer to get their payment.

4. Heard the learned counsel for the applicant and the learned counsel for the respondents. There is no doubt that transfer is an incidence of service and it is the prerogative of the respondents to transfer their employees from one place to another depending upon the exigency of the work. But in the present case, it is seen that the reason for transferring the applicant is to have fairness and transparency in administration as the applicant's sister is a Local Entrepreneur running CSC for the department. The apprehension of the respondents probably is that when the applicant is supervicing the work of the CSC run by her sister, there would be scope for corruption/favouritism. In my considered view, such an apprehension is misplaced. It is wrong to consider that every employee would indulge himself/herself in corrupt practices/favouritism. It is only when such instances come to the notice of the administration, probably there is scope for such transfers. However, if the

respondents are concerned about the propriety of the applicant supervising work of her sister, the said work may not be entrusted her and it may be done by the SDO directly or through some other personnel. Secondly, as rightly argued by the applicant's counsel, it is the policy of the Government of India to post the spouses at the same station. The government of India, Department of Personnel and Training had issued instructions in this regard vide O.M Nos.28034/7/86-Estt.(A), dated 03.04.1986, No.28034/2/97-Estt.(A) dated 12.6.1997 and again vide O.M No.28034/9/2009-Estt.(A) dated 30.09.2009. In all those O.Ms, the Government of India has reiterated that husband and wife who are in government service shall be mandatorily posted in the same Station. In the said O.Ms, the government has also stated the purpose for doing so. It is for the enhancement of women's status in all walks of life and to enable them to lead a normal family life and also to ensure the education and welfare of the children. In my considered view, the aforesaid O.Ms should have the precedence over any other considerations unless there are unavoidable circumstances which require a person to be transferred and posted to a particular place. The contention of the respondents that they have considered the fact that the applicant has a son who is studying in 7th Standard and therefore they have posted her to Kiltan which is nearly 40 kms away from her native village of Kadmt is also devoid of any logic. The 40 Kms distance in the main land can not be compared with the 40 kms distance between two islands. It is not the case of the respondents that the applicant can travel daily from Kadmt to Kiltan and come back to her house in Kadmat in the evening.

5. In the above facts and circumstances of the case, I am of the considered view that the transfer of the applicant is in violation of Government of India's own policy of posting of husband and wife together in one station and, therefore, it cannot be accepted. Consequently this Original Application is



allowed and the impugned order of Annexure A-1 transfer order dated 07.05.2012 transferring the applicant from Kadmat to Kiltan is quashed and set aside.

6. There shall be no order as to cost.



(GEORGE PARACKEN)
JUDICIAL MEMBER

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