

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.181/00572/2018

Thursday, this the 12th day of July, 2018

CORAM:

Hon'ble Dr. K.B. Suresh, Judicial Member

Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member

P. Muhammed Abdul Nasir,
Aged 55 years, S/o. U.P. Kasim Thangal,
Inspector of Police (HQ), Kavaratti – 682 555,
(Under orders of transfer to Kalpeni Police Station),
Union Territory of Lakshadweep,
Permanent Address: Pathumada House, Androth Island,
PIN – 682 551, UTL. **Applicant**

(By Advocate – Mr. T.C. Govindaswamy)

V e r s u s

- 1 The Administrator,
Union Territory of Lakshadweep,
Kavaratti – 682 555.
- 2 The Superintendent of Police,
Union Territory of Lakshadweep,
Kavaratti – 682 555.
- 3 Shri. B. Mohammed,
Now Circle Inspector of Police (HQ),
Kavaratti – 682 555. **Respondents**

**(By Advocate – Mr. S. Manu (R1 & R2))
Mr. Anand S.A. (R3))**

This Original Application having been heard on 10.07.2018, the Tribunal on 12. 07.2018 delivered the following:

ORDER

Hon'ble Dr.K.B.Suresh, Judicial Member -

The matter relates to transfer of a Police Officer.

2. The applicant had taken twin reasons to get out of this predicament.

One is that he has severe back pain.

3. We have carefully gone through the medical certificate produced by him. But could not deduce anything more significant than age related diminishment in physical ability.

4. The next ground raised is that he had apparently faced illtreatment by the member of N.C.P. which is apparently a political party. We have heard Shri Govindaswamy at great length on this aspect. He would say that the applicant's family was targetted by this people. They would drop unsanitary things in his well and throw stones at his house with the sole intent of frightening his family. He was there apparently from 2011 to 2014. Therefore, we queried to Shri Swamy as to whether any complaint had been raised by him in respect of this. Apparently he had not raised any complaint.

5. Then he would say that since he was able to get the President's Medal his colleagues were jealous and they have manipulated the concerned authorities to transfer him from the Headquarters to Kalpeni.

6. Apparently, not even slightest evidence is available on any of these issues. On our direction the concerned authority had conducted a detailed study of the issues at Kalpeni and they report that the records do not show any such incidents. It is quite clear that if a Police Officer and high officer as the rank of the applicant had been subjected to harassment action would have been taken. He is well able to take appropriate action against them. But to make matters more clear, made query to Shri Swamy as to the the reasons for these peoples unhappiness towards this officer. Mr. Swamy could not answer to this question other than saying that these people have a

taken dislike to the applicant. There cannot be smoke without a fire, however, small it might be. Therefore, we persisted in our query so that Shri Swamy may persuade us, the reasons for the ire against the applicant. He would say that there no reason. Therefore, we have come to the conclusion that this is nothing but a story germinated in the imagination of the applicant.

7. As we have asked about such person's identity also and could not get any direct answer. We now need to close this issue.

8. Even though he had not raised it as an issue in his pleadings Shri Swamy would submit that in fact applicant had been transferred out of Kavarathi before he had completed the three years stipulation in the transfer rules. But then no other *malafides* or malicious intention has been alleged by the applicant against the respondents. It is just that at this point that the applicant did not want a transfer to Kalpeni.

9. At this point of time, Shri Swami raised one more objection that there are only four sanctioned posts of Circle Inspector and the Kalpeni post is not ear marked for a Circle Inspector. But the respondent submitted that due to paucity of men they adjust people and in fact even earlier also as a Circle Inspector, the applicant had served in Kalpeni.

10. Transfer is an integral part of Govt. Service. Govt. Servants must necessarily be transferred out after a period and at a particular geographical location. Otherwise they tend to grow roots in that particular location which is prejudicial to the general public interest. Therefore, there is a need to transfer Govt. employees. The only bar against such transfer would be that it must not be unduly prejudice the employee. No such

prejudice had been pointed out in this even though the pleadings are quite lengthy on both sides. We are specifically not going into all these details because in a transfer case none of these elements matter for the quashment of a transfer order what is required is that there must be a high degree of arbitrariness in the order or it must be illegal or it must be so prejudiced to the case of the employee. There is no such allegation anywhere in the pleadings. Since we have to satisfy our conscience we repeatedly asked to the learned counsel for the applicant as to the grounds on which he assailed the transfer other than what is stated above. Nothing else is forthcoming as a ground against his transfer. Therefore, we hold that his transfer seems to be legitimate but at this point of time, Shri Swamy submits that he could not get a ticket to Kalpeni and that is why he had not gone.

11. Without any doubt applicant cannot be asked to swim over from Kavarathi to Kalpeni. The respondents will give him time enough to get a ship so that he can go and take charge and thereafter to take his family also there. And would therefore, provide him with an opportunity to go and join there.

12. With this observation and direction, we hold that there is no ground available for the applicant against the transfer order. But we hold that the filing of this application should in no way prejudice the applicant in future.

13. O.A. is without merit. Dismissed. No costs.

(E.K. BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

(Dr.K.B. SURESH)
JUDICIAL MEMBER

List of Annexures of the Applicant

- Annexure A-1** - A true copy of Order bearing F. No. 1/7/92-Estt(Pol) dated 01.06.2018, issued from the office of the 2nd respondent.
- Annexure A-2** - A true copy of Office Order bearing F. No. 1/7/92-Estt (Pol) 1946 dated 23.06.2018, issued from the office of the 2nd respondent.
- Annexure A-3** - A true copy of representation dated 23.05.2018, submitted to the 1st respondent.
- Annexure A-4** - A true copy of Chart showing details of transfer and posting of the applicant, as prepared by the applicant from the date of his initial joining the department.
- Annexure A-5** - A true copy of Letter of Appreciation dated 16.08.2017 issued by the 1st respondent.
- Annexure A-6** - A true copy of order dated 05th June 2018 in OA No. 181/478/18 rendered by this Hon'ble Tribunal.
- Annexure A-7** - A true copy of Office Order bearing F1/7/92-Estt (Pol) 1945 dated 23.06.2018, issued by the 2nd respondent.
- Annexure A-8** - A true copy of Office Order bearing F. No. 1/7/92-Estt (Pol)/1947 dated 23 June 2018, issued by the 2nd respondent.
- Annexure A-9** - A true copy of transfer policy in vogue bearing F. No. 12/03/2012-Services dated 22 Feb 2012, issued by the Administration of Lakshadweep.
- Annexure A-10** - True copy of certificate dated 26.06.2018, issued by the Port authorities of Kavaratti.
- Annexure A-11** - True copy of certificate bearing F. No. 1/4/2017-PA(KVT) dated 26 June 2018, issued by the Port authorities.
- Annexure A-12** - True copy of Medical Certificate bearing F. No. 5/2/2012-IGH dated 29.06.18, issued by the Medical Superintendent of the Government Indira Gandhi Hospital at Kavaratti.

- Annexure A-13** - True copy of certificate dated 30.06.18, issued by the Sr. Consultant Neurologist, Head of the Department of Neurology, Lakeshore Hospital, Kochi.
- Annexure A-14** - True copy of Certificate dated 30th June 2018, issued by the Sr. Consultant Neurologist, Head of the Department of Neurology, Lakeshore Hospital, Kochi.
- Annexure A-15** - True copy of representation dated 04 July 2018, submitted to the 2nd respondent.

List of Annexures of Respondent Nos. 1 & 2

- Annexure RI** - True copy of the order dated 23.06.2018 issued by the 1st respondent.
- Annexure II** - True copy of the joining report of the 3rd respondent dated 08.06.2018.
- Annexure III** - True copy of the joining report dated 23.06.2018 of the 3rd respondent.
- Annexure IV** - True copy of Annexure II with acknowledgment of the applicant.
