

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**Original Application No.180/00551/2018**

Friday, this the 7<sup>th</sup> day of June, 2019

**Hon'ble Mr.E.K.Bharat Bhushan, Administrative Member  
Hon'ble Mr.Ashish Kalia, Judicial Member**

Dr.K.Sunil Kumar  
Principal Scientist (Horticulture)  
Directorate of Oil Palm Research, Research Centre  
Palode, Pacha,  
Thiruvananthapuram – 695 562 ..... **Applicant**

**(By Advocate Mr.R.Rajasekharan Pillai)**

**V e r s u s**

1. The Indian Council of Agriculture Research (ICAR)  
represented by the Secretary, Krishi Bhavan  
Dr.Rajendra Prasad Road  
New Delhi – 110 012
2. The Under Secretary (Pers), ICAR,  
Krishi Bhavan, Dr.Rajendra Prasad Road  
New Delhi – 110 001
3. The Director CTCRI, Sreekaryam  
Thiruvananthapuram – 695 017
4. The Competent Authority for Transfer of Agricultural Scientists  
ICAR, Krishi Bhavan  
Dr.Rajendra Prasad Road  
New Delhi – 110 001
5. Dr.Tania Seth, Scientist, ICAR Research Centre for Eastern Region  
Research Centre, Palandu,  
Jharkhand 834 010 ..... **Respondents**

**(By Advocate – Mr.P.Santhosh Kumar for R 1-4 and Mr.Sunil Jacob Jose for R5)**

This Original Application having been heard on 31.5.2019, the Tribunal on 7.6.2019 delivered the following:

## **O R D E R**

**Per: Mr.E.K.Bharat Bhushan, Administrative Member**

Original Application No.180/00551/18 is filed by Dr.K.Sunil Kumar, Principal Scientist (Horticulture), Directorate of Oil Palm Research Centre, Palode, Thiruvananthapuram against cancellation of his transfer to CTCRI, Palode, Thiruvananthapuram. The reliefs sought in the Original Application are as follows:

“(I) Call for the records leading to and culminating in Annexure -A VII and quash the same as arbitrary, illegal and unconstitutional.

(II) Direct the respondents to retain the applicant in Central Tuber Crops Research Institute Thiruvananthapuram

(III) Declare that Annexure – A VII is nonest and ab initio void.

and

(IV) Award costs to the applicant.”

2. The applicant was originally selected by the Agricultural Recruitment Board as a Scientist and worked at Tripura for more than 8 years. Being a native of Thiruvananthapuram, he had been constantly requesting for a transfer to that place. As per order dated 12.6.2007, he was transferred to the Directorate of Oil Palm Research, Pedavegi in West Godavari Andhra Pradesh. After having worked in Pedavegi for about 6 years, he was transferred to Palode Research Station coming under the Directorate of Oil Palm Research, Palode, Thiruvananthapuram as per order dated 6.7.2013 (Annexure A-II) and has been working there ever since. Being one of the

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organisations coming under Indian Council of Agricultural Research, the Scientists working in one Institute are entitled for seeking transfer to another. Accordingly, applicant had applied online for a transfer on 15.6.2018 for an opening in CTCRI, Palode, Thiruvananthapuram. In ICAR, transfers are governed by transfer norms, copy of which is available at Annexure A-III. On the basis of the eligibility of candidates, weightage points are assigned to candidates who seek transfers. According to the information he had obtained at the time of his on line application, he seems to have acquired a weightage of 45 total points out of 100 (Annexure A-IV). This high score was on the basis of his eligibility which he had represented in full measure. Thus, by order of the 4<sup>th</sup> respondent dated 11.6.2018 (Annexure A-V), he was transferred to CTCRI Thiruvananthapuram. There was operational requirement also as there were vacancies of Scientists under his discipline in CTCRI. The applicant is an expert in Horticulture and Horticulture is the largest wing in the said Institute. All of a sudden, an order dated 22.6.2018 was issued vide Annexure A-VII canceling his transfer to CTCRI. He submits that the cancellation is irrational and based on misconceived appreciation of facts.

3. As grounds, the applicant submits that he had been granted the transfer duly considering the weightage points he got as per transfer norms published by the first respondent. The cancellation of the Annexure A-V order has not cited any reason and the applicant can only surmise that this is in order to favour someone else. The action of the 4<sup>th</sup> respondent in issuing the cancellation order has been illegal and against the principles of natural

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justice. The applicant had spent lion's share of his career away from his hometown and by cancellation of the transfer already granted to him, he is being denied this facility without assigning any reason.

4. A reply statement has been filed on behalf of the 2<sup>nd</sup> respondent where it is stated that the applicant belongs to a cadre of Agricultural Scientists known as Agricultural Research Service (ARS), who are appointed in 55 different research disciplines for the purpose of specialized research in different fields of agricultural sciences. These Institutes/Units are spread all over India and members of the ARS have liability for all India service.

5. It is submitted that the statements furnished by the applicant that the transfer norms have been violated and the applicant's transfer has been canceled in order to benefit another employee who has less weightage points are false. It is true that in the initial reckoning, the applicant was granted 45 marks which was 25 marks for minimum retention period and 20 marks for weightage for his wife being a State Government employee. Subsequently, it was noticed that the applicant's wife is a State Government employee who is working at Kannur, which is several hundred kilometers away from the applicant's station. Thus, a view was taken that he was not eligible for the 20 marks granted for couple working at the same place. Instead, respondent no.5, one Dr.Tania Seth, whose spouse is also an ICAR employee and thereby, qualifying for 30 marks and was granted the transfer to CTCRI. The 5<sup>th</sup> respondent's husband is working in Bhuwaneswar and since CTCRI have a station at that place, both husband and wife being ICAR employees,

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could be together. Thus, the applicant's contention that the transfer norms have been violated is false and misleading.

6. Learned counsel for respondent no.5 has filed a counsel statement in which it is stated that both she and her husband are ICAR employees and are currently working at Ranchi and Bhuwaneshwar, about 450 kms away from each other from the time of their marriage during the year 2016.

7. We have heard Shri.R.Rajasekharan Pillai, learned counsel for the applicant, Mr.P.Santhosh Kumar, learned counsel for respondent nos.2-4 and Mr.Sunil Jacob Jose, learned counsel for respondent no.5. Perused the records.

8. The applicant is a Senior Scientist who is currently working under the Directorate of Oil Palm Research, which is headquartered in Andhra Pradesh. But for the last 6 years, he has been working at Palode, Thiruvananthapuram Research Centre. He sought a transfer to CTCRI which is based in Thiruvananthapuram itself. This was granted and subsequently canceled, thus giving him a reason to approach this Tribunal.

9. In a large organisation such as ICAR, which has many technical institutes working in the agricultural field situated in different parts of the country, the officials are constantly seeking transfers to places of their choice. It was in order to avoid any charges of bias or arbitrariness that a transfer policy has been evolved and the guiding principles set out as

norms at Annexure A-III. The 5<sup>th</sup> respondent is clearly eligible for 30 weightage points as she and her husband are both employees of ICAR. The respondents in the second instance have credited the applicant only with 25 weightage points for completion of his mandatory tenure. The respondents disallowed the 20 weightage points granted to the applicant for his spouse being in State Government employment. The justification advanced by the respondents is that the applicant and his wife are not posted in the same place but in different districts in the Kerala.

10. The applicant has many years service more than respondent no.5 who joined the employer Organisation as late as in 2015. His contention that he has worked several years in 'hard station' is not disputed. The re-estimation of marks by which his score was reduced from 45 to 25 was on the ground that he was not entitled to any marks for his wife being in State Government for the reason that they cannot be posted together in the same place.

11. We feel that this is an erroneous interpretation. The norms clearly state the weightage for each factor as follows:

S1.No	Reasons for transfer	Weightage
1	Presently posted at 'B' category of stations, and completed the mandatory period, of service at the place of posting as mentioned in para-3.1, above	25
2	Presently posted at 'A' category of stations, and completed the mandatory period of service at the place of posting as mentioned in para – 3.2, above	15

3	<p>The applicant who has served longest in a station among the scientists applied for transfer after completing the mandatory period:</p> <p>3.1 for each completed year beyond the mandatory period served at area 'B', weightage of 5 point will be added and the maximum weightage permitted is 15.</p> <p>3.2 for each completed year beyond the mandatory period served at area 'A', weightage of 2 point will be added and permitted is 10.</p>	15	10
4	<p>Working Couple grounds as mentioned in para – 3.5.1 above and if the spouse is posted in ICAR/Central Govt./State Govt./PSU/Autonomous Organisation.</p> <p>4.1 Both are in ICAR-CTCRI</p> <p>4.2 Spouse in Central govt.</p> <p>4.3 Spouse in State Govt./PSU/Autonomous Organisation</p>	30	25
5	<p>Medical grounds of self/family as declared in the service book to be supported by the documents as mentioned in para – 3.5.2 above</p>	30	

12. For an employee whose wife is in State Government, he or she is entitled to 20 weightage points regardless of which part of the State the spouse is employed in. In so far as respondent no.5 is concerned, it is undisputed that she is eligible only for 30 weightage points and once the applicant is allowed the 20 points for spouse being in State Government service, he would clearly be the more eligible candidate. The applicant is undeniably the more qualified candidate for the transfer to CTCRI.

13. On a consideration of all facts, we conclude that the Original

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Application has merit. We set aside Annexure A-VII order canceling the earlier order at Annexure A-V. The respondents are directed to retain the applicant in CTCRI, Palode, Thiruvananthapuram. Orders in this regard to be issued within 15 days from today.

14. The Original Application is allowed as above. No costs.

**(ASHISH KALIA)**  
**JUDICIAL MEMBER**

**(E.K BHARAT BHUSHAN)**  
**ADMINISTRATIVE MEMBER**

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**List of Annexures**

Annexure A1 - True copy of the order dated 12.6.2007 of the 2<sup>nd</sup> respondent

Annexure AII - True copy of the office order dated 6.7.2013 issued by the Director Oil Palm Research

Annexure AIII - True copy of the letter F.No.38(2)/2011-Per.IV(pt) dated 19.4.2018 from the 2<sup>nd</sup> respondent and guidelines for transfer

Annexure AIV - True copy of the printout given by the Indian Council of Agriculture Research (ICAR for short) personal Management information system

Annexure A V - True copy of the order F.No.11(1)/2018-Per-II dated 11.6.2018 of the 4<sup>th</sup> respondent

Annexure A VI - True copy of the approved cadre strength of scientific positions at ICAR-CTCRI & in Position

Annexure A VII - True copy of the order F.No.II(I)2018-Per-II dated 22.6.2018 of the 2<sup>nd</sup> respondent.

Annexure R5(A) - Photocopy of the acknowledgment of the request dated 8.5.2018

Annexure R5(B) - Photocopy of the office order dated 5/7/2018.

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