

**Central Administrative Tribunal
Ernakulam Bench**

OA No.180/00461/2019

Thursday, this the 21st day of November, 2019.

CORAM

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

Suresh C, aged 58 years,
S/o Lakshmikutty,
House No.81, Sumanam, V.V.Nagar,
NCC Road, Peroorkada P.O.,
Thiruvananthapuram-05.
(Supervisor ES-II Wing, O/o the Accountant General,
(E&RSA), Kerala, Branch Office, Thrissur).

Applicant

(Advocate: Mr.Alexander Josspeh)

Versus

1. The Accountant General (E&RSA),
Kerala, Thiruvananthapuram-1.
2. The Deputy Accountant General,
O/o the Principal Accountant General (E&RSA),
Kerala, Thiruvananthapuram-695 001.
3. The Deputy Accountant General (ES-II Wing),
O/o the Accountant General (E&RSA),
Kerala, Branch Office, Thrissur-680 001. Respondents

(Advocate: Mr.K.I.Mayankutty Mather rep by Mr.Vineeth Komalachandran)

The OA having been heard on 19th November, 2019, this Tribunal delivered the following order on 21.11.2019:

ORDER**By E.K.Bharat Bhushan, Administrative Member**

This OA is filed by Sri Suresh C, Supervisor ES-II Wing, Office of the Accountant General, Kerala, Branch Office Thrissur, against the inaction on the part of the respondents to transfer him back to Thiruvananthapuram from Thrissur Branch. The reliefs sought in the OA are as follows:

- (i) Set aside Annexure A1 and A7.*
- (ii) Direct the respondents to transfer the applicant from Thrissur Branch to the Head Office at Thiruvananthapuram of the 1st respondent.*
- (iii) Direct the 1st respondent to consider and pass order on Annexure A5, A6 and A8 representations.*

2. The applicant was working as Supervisor (Group-B Non-Gazetted) in the Field Audit Wing of the Commercial Branch Office of the Principal Accountant General (E&RSA), Kerala, Thiruvananthapuram, when he was served with order dated 18.10.2016 (Annexure A1) issued by the 1st respondent by which he was transferred from ES-I Wing (Thiruvananthapuram) to ES-II Wing (Thrissur). The applicant is settled at Thiruvananthapuram, his wife being employed at the State Secretariat, with children studying in Thiruvananthapuram. He also claims that he is suffering from various diseases, as evidenced from documents produced as Annexures A2, A2(a), A3, A3(a), and A4. The transfer order at Annexure A1 caused grave injury and hardship to the applicant and he had submitted a representation to the 1st respondent as early as on 28.10.2016 (Annexure A5) seeking retention at Thiruvananthapuram. The 1st respondent did not consider the representation. Again, disregarding the representations, the 1st first respondent has issued order dated 5.4.2019 transferring him from Field Audit Wing to ES-II Head Quarters, Thrissur as per

Annexure A7. This was preventing him from taking necessary medical treatment. Finding it very difficult to attend office at Thrissur while continuing treatment at Thiruvananthapuram, the applicant availed half pay leave on medical ground and is stated to be still continuing on medical leave.

3. Respondents 1 to 3 have filed a reply statement disputing the contentions raised in the OA. It is stated that the Office of the Accountant General (ER&SA) is vested with the duty of conducting audit and taking follow up action relating to the Government Departments, Public Sector Undertakings, and Autonomous Institutions. About 80 percent of the officials belonging to supervisory cadres are involved in the audit of field units amounting to about 2900. The applicant had been working in Wings/Sections in Thiruvananthapuram from 23.11.1981 onwards. He was promoted as Supervisor with effect from 6.11.2013. All promotions to supervisory cadre necessarily entail definite transfer liability. However, he was retained in ES-I Wing itself where he has been working since January, 2009. He was transferred to ES-II Wing at Branch office, Thrissur with effect from 18.10.2016 based on the recommendation of the Transfer Board and in accordance with the Transfer Policy. Several other officers had also been transferred during the month of October, 2016, as is seen from Annexure R2 and all these transfers were in accordance with Transfer Board decisions and guidelines of Transfer Policy, copy of which is marked as Annexure R1.

4. Some of the averments made in the OA are not true to facts. The applicant had been transferred to ES-II Wing with effect from 18.10.2016, but did not join duty there till 26.3.2017. Instead, he proceeded on various spells

of leave. Later he had joined ES-II Wing on 28.3.2017 and soon afterwards, proceeded on leave under the plea of ill health, severely impairing the working of his field party. Yet the Accountant General took a lenient view and posted him at ES-II Hqs at Thrissur with effect from 5.4.2019 (Annexure R3), giving him only light duty of cataloguing departmental paras. Thus, it can be seen that his grievances, for the most part, have already been redressed.

5. He states that he is suffering from various lifestyle diseases, such as Type -II diabetes, nephropathy, neuropathy, retinopathy and blood sugar. For these, he has produced certificates issued from Thiruvananthapuram Medical College. For some reason, despite claiming that he is seriously unwell, he has not availed the free medical treatment available under CGHS Scheme.

6. Heard Sri Alexander Joseph, learned counsel on behalf of the applicant and Sri K.I.Mayankutty Mather represented by Sri Vineeth Komalachandran on behalf of the respondents.

7. The applicant is clearly unhappy about working at any other place other than Thiruvananthapuram. After having continued at Thiruvananthapuram all through since 1981, he was posted to Thrissur in 2016. He filed representations seeking a return to Thiruvananthapuram, citing various reasons including several health disorders. He has produced records of the Medical College where certain disorders have been diagnosed. But there is no evidence of him having sought permitted CGHS care. It is clear from the reply as also the averment made by the Standing Counsel for the respondents that he has now been accommodated in the light duty of cataloguing official records. This also does not appear to have been to the liking of the applicant. Whatever be the

circumstances, he is expected to be on field duty and cannot drop anchor at one station forever. From this perspective, we see little merit in the OA and we are inclined to dismiss it. OA fails and is dismissed.

(Ashish Kalia)
Judicial Member

(E.K.Bharat Bhushan)
Administrative Member

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Annexures filed by the applicant:

Annexure A1: Copy of the transfer order dated 18.10.2016 of the 1st respondent.

Annexure A2: Copy of the out patient record dated 26.4.2019 issued by the Government Medical College, Thiruvananthapuram.

Annexure A2(a): Readable typed copy of Annexure A2.

Annexure A3: Copy of the out patient ticket No.10858 issued by the Regional Institute of Ophthalmology.

Annexure A3(a): Readable typed copy of Annexure A3.

Annexure A4: Copy of the Medical Certificate issued by the Chairman, Medical Board, General Hospital, Thiruvananthapuram.

Annexure A4(a): Readable typed copy of Annexure A4.

Annexure A5: Copy of the representation dated 31.10.2016 of the applicant to the 1st respondent.

Annexure A6: Copy of the representation dated 17.3.2017 of the applicant to the 1st respondent.

Annexure A7: Copy of the transfer order dated 5.4.2019 of the 1st respondent (with readable copy).

Annexure A8: Copy of the representation dated 31.5.2019 of the applicant to the 1st respondent.

Annexure A9: Copy of the Transfer Policy No.Au/Admn/ERSA/Transfer Policy/2017-18 dated 4.12.2017 of the 1st respondent.

Annexure A10: Copy of the letter dated 1.3.2017 of the 2nd respondent to the petitioner.

Annexures filed by the respondents:

Annexure R1: Copy of the minutes of the Transfer Board and guidelines of transfer policy.

Annexure R2: Copy of the list of transfer of officials necessitating headquarters change in October, 2016.

Annexure R3: Copy of the proceedings of the office of the Accountant General (ERSA).

Annexure R4: Copy of the statement of the applicant placed for medical reimbursement claim from March, 2018 to June, 2019.