

(2024) 07 KL CK 0013

In the High Court Of Kerala

Case No : Writ Petition (C) No. 22491 Of 2024

Ambily Joseph

APPELLANT

Vs

Director General NCC

RESPONDENT

Date of Decision : 11-07-2024

Acts Referred:

Citation : (2024) 07 KL CK 0013

Hon'ble Judges : Murali Purushothaman, J

Bench : Single Bench

Advocate : Anitha Mathai Muthirenthi, Shilpa Thresia M.A., Aswin Kuriakose

Final Decision : Disposed Of

Judgement

Murali Purushothaman, J

1. The petitioner, a Senior Girl Cadet Instructor (Sr.GCI) with the National Cadet Corps (NCC) has been transferred as per Ext.P2 from Trivandrum to Kottayam District. Challenging Ext.P2, the petitioner approached this Court by filing W.P. (C)No.26728 of 2023. This Court, by Ext.P4 judgment, directed the competent authority to take up the representation submitted by the petitioner and to dispose of the same after hearing her not later than two weeks from the date of receipt of a copy of the said judgment. Till such time, the petitioner was allowed to continue on the basis of the interim order passed in the said case. In compliance with Ext.P4 judgment, Ext.P5 order was passed by the 1st respondent on 06.10.2023 rejecting the request of the petitioner and directing her to move to the station to which she has been transferred.

2. The petitioner challenged Ext.P2 and Ext.P5 orders before this Court by filing W.P.(C) No.5454/2024. This Court, by Ext.P7 judgment, disposed of the writ petition and Paragraph 5 thereof reads as follows:

"Ext.P1 transfer policy takes care of the procedure to be followed in respect of rotational transfer involving the change of station. The competent authority in an

organization has the right to decide on the administrative reasons as well as the organization structure as to who should work in a station. It is settled law; the transfer is an incidence of service. An employee who accepts the post is bound to accept any transfer orders issued in the interest of the organisation or for administrative reasons. It can be seen from Ext.P2 that the petitioner has been transferred from Trivandrum station to a station in Kottayam District. It is also a fact that the petitioner had been working for the last 27 years in one station. The employee does not have a vested right to be posted in a particular place of his / her choice. It is always the domain of the employer. A perusal of Ext.P6 would show that all the relevant points raised by the petitioner in her representation have been taken into the case and held that there is no contravention of any Rules and with malafide intention. On perusal of Ext.P6, I am satisfied that in compliance with Ext.P5 judgment, Ext.P6 is in order; therefore, the writ petitioner is not entitled to any of the reliefs sought. However, it is made clear that the petitioner being a single mother and giving care to her mother who is ailing from several diseases, and also the fact that her son is in the last year of graduation is given the liberty to file representation pointing out all these facts to the competent authority once more pointing out that she is due to retire on 31.05.2026, so that there would be smooth processing of the pension papers and other retirement relating matters.”

3. On the basis of the liberty granted by this Court in Ext.P7 judgment, the petitioner has preferred Ext.P9 representation for cancellation of the posting order pointing out that she is a single mother and has to take care of her ailing mother and that her son is in the last year of graduation and also other hardships caused to her on account of transfer. The petitioner submits that no orders are so far passed thereon. The petitioner also refers to Clause 7(e) (iii) of Ext.P1 transfer policy which reads as under:

“If the employee is due for superannuation within two years, he/she will be retained in the same dte/branch even after completion of the maximum prescribed tenure in order to ensure the smooth processing of pension papers and other retirement related matters and as also to ensure pre-retirement planning for the individual.”

4. Heard the learned counsel for the petitioner and the learned Senior Central Government Standing Counsel for the respondents.

5. The petitioner has preferred Ext.P9 representation pursuant to the directions and observations of this Court in Ext.P7 judgment. The petitioner is due to retire on 31.05.2026. In Ext.P9, she has pointed out the various hardships caused to her, on account of her transfer. Therefore, there will be a direction to the 1st respondent or the competent authority to consider Ext.P9, as expeditiously as possible, at any rate, within a period of two weeks from the date of receipt of a copy of this judgment.

This writ petition is disposed of.