
(2014) 10 KL CK 0355

In the High Court Of Kerala

Case No : Writ Petition (Civil) No. 28372 of 2014 (V)

K. Babu

APPELLANT

Vs

Kerala State Civil Supplies Corporation

RESPONDENT

Date of Decision : 30-10-2014

Acts Referred:

Citation : (2014) 10 KL CK 0355

Hon'ble Judges : Dama Seshadri Naidu, J

Bench : Single Bench

Advocate : Alexander George, C.P. Saji and D. Sreekumar, Advocate for the Appellant; Molly Jacob, S.C, Advocate for the Respondent

Judgement

Dama Seshadri Naidu, J.—Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents, apart from perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. Briefly stated, the petitioner, who is working as Officer-in-Charge of the Maveli Store, Thengamom in Pathanamthitta District, has been subjected to transfer through Exhibit P1 to Changanassery Depot, Kottayam District. Assailing that the transfer inter-district affects his seniority and other service benefits including his right to promotion, the petitioner filed the present writ petition.

3. The learned counsel for the petitioner has drawn my attention to Exhibit P2 and has contended that any inter-district transfer of district-wise recruits will result in loss of seniority even in cases where state-wise seniority list is maintained for promotion. Expatiating on the said submission, the learned counsel would contend that the petitioner's initial appointment was based on district-wise recruitment and that now through Exhibit P1 the fourth respondent has sought to transfer the petitioner to another district, thereby adversely affecting the career prospects of the petitioner.

4. In the alternative, the learned counsel has also strenuously contended that at

no point of time have there been any disciplinary proceedings pending against the petitioner to subject him to transfer. He has also contended that transfers are usually effected only on the request of the employee and the petitioner has never made any request. Eventually, the learned counsel has submitted that when there are about seven vacancies in the same district, there is no justification for the fourth respondent to transfer the petitioner to another district. Accordingly, the learned counsel urges this Court to allow the writ petition interdicting Exhibit P1 transfer order.

5. Per contra, the learned Standing Counsel for the respondent Civil Supplies Corporation strenuously opposes the claims and contentions of the petitioner. At the outset she has reiterated the well established legal principle that transfer is an alternative concomitant to public service and that the petitioner does not have any indefeasible right to insist that he should be continued at one place for ever.

6. Drawing this Courts attention to Exhibit P2, the learned Standing Counsel has submitted that it is only a clarificatory order issued by the Government on the question of the apprehended loss of seniority in the event of inter-district transfers. The learned Standing Counsel has contended that once an incumbent completes five years of service at one place, his subsequent transfer, even inter-district, on administrative grounds cannot work to the prejudice of the employee and his seniority will not be affected. To bolster her submission, the learned Standing Counsel has passed on across the bar what is said to be the seniority list of qualified candidates in the eligibility test conducted on 10.06.2012 for the promotion to the post of Junior Assistant. Eventually, the learned Standing Counsel has urged this Court to dismiss the writ petition as being devoid of merit.

7. It has indeed assumed clichetic proportions to observe that transfer is an unavoidable incidence of service and it is at best an occupational angst of an employee, which cannot be avoided. In the present instance, the petitioner has admittedly completed five years of service in the place of his present posting. Evidently, owing to administrative convenience, if not exigency, the petitioner has been subjected to inter-district transfer.

8. At the outset, it is only stated to be rejected that it is not invariable that an employee should be put on notice concerning the proposed transfer intended to be initiated by the employer; nor is it necessary that a person should be subjected to transfer only under the circumstances where he is facing certain disciplinary proceedings.

9. Indeed, it is equally well established that no transfer shall be effected to the prejudice of the employee, especially with respect to his career prospects and service benefits. In other words, if any transfer has the effect of affecting the career advancement of the employee adversely it is a punitive transfer and it is required to be shunned. In the present instance, I am afraid, I cannot see any such eventuality working to the prejudice of the petitioner.

10. A perusal of Exhibit P2 amply demonstrates that the said order is clarificatory

in nature. It is made clear therein that a district-wise recruit shall complete five years of service in the district of recruitment as well as in the department where he is working so as to become eligible to get an inter-district transfer to another district. Thus, it enables either the employee who seeks transfer or the employer who wishes to transfer the employee without affecting the seniority once the transfer is inter-district. As such, the petitioner cannot contend that even after five years at one station, any subsequent transfer inter-district would still result in loss of seniority. At any rate, the learned Standing Counsel has gone on record emphasizing that the petitioner's seniority could not be affected and his rank as has been reflected in the list of qualified candidates referred to above is in no way threatened.

In the facts and circumstances, having regard to the respective submissions of the learned counsel for the petitioner and the learned Standing Counsel for the respondent Corporation, this Court is of the view that the writ petition lacks merits and it is accordingly dismissed. No order as to costs.