

(2026) 03 KL CK 0726

In the High Court Of Kerala

Case No : Writ Petition (C) Nos. 44193 Of 2025 And 125 Of 2026

Linson K. Thomas

APPELLANT

Vs

Union Of India, Represented By Its Secretary

RESPONDENT

Date of Decision : 13-03-2026

Acts Referred:

Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal)
Act, 2013 — Section 2(n), 13(3)(i), 16

Citation : (2026) 03 KL CK 0726

Hon'ble Judges : N. Nagaresh, J

Bench : Single Bench

Advocate : D.Kishore, Meera Gopinath, Anant Kishore, Karthik S. Acharya, Jose Kuriakose (Vilangattil), M.Rajendran Nair (Thonnalloor), K.Jaju Babu, Renjith R. Nair (Kollam), Sanoj R. Nair, Sreejith R.Nair, Karthik S.A., L.Sundaresan

Final Decision : Dismissed

Judgement

N. Nagaresh, J

1. Both these writ petitions are filed by the petitioner who is working as Assistant Grade-I Technical in the Food Corporation of India, Divisional Office at Thiruvananthapuram. W.P.(C) No.44193 of 2025 has been filed seeking to quash Exts.P16 and P17 orders and to direct respondents 2 to 6 to permit the petitioner to continue in service in the Divisional office of the 2nd respondent where he was working prior to the order of transfer or in any other offices of the 2nd respondent at Thiruvananthapuram. In W.P.(C) No.125 of 2026, the petitioner seeks to quash Exts.P15 to P17 orders and to permit the petitioner to continue in service in his present station or in any other offices of the 2nd respondent at Thiruvananthapuram.

2. The petitioner states that the petitioner and his wife are both working as Assistant Grade Officers in the Divisional Office, Thiruvananthapuram. With respect to a Will executed by the petitioner's father-in-law, there arose certain disputes between the petitioner and his sister-in-law. The sister-in-law submitted

a complaint to the Regional Office alleging that the Will was created by the petitioner and his wife influencing the father-in-law.

3. The petitioner states that the complaints made are not related to conditions of service of the petitioner or his wife. Nevertheless, the respondents constituted a Committee to enquire into the allegations. The Committee reported that the issue is pending consideration before the Munsiff's Court and there is no provision to conduct investigation and hence the complaint is to be dropped.

4. The General Manager, however, constituted a Committee at the District Level to investigate into the complaint. The 8th respondent was a member of the Committee. The Committee proceeded to investigate the civil dispute. The petitioner submitted Ext.P3 representation to the 3rd respondent complaining about the illegalities committed by the 8th respondent while she was functioning as a member of the Committee.

5. Instead of enquiring into the complaint made in Ext.P3, the 3rd respondent-General Manager caused an enquiry to be conducted against the petitioner. The Committee, as per Ext.P4 report, concluded that the concerned officials shall be cautioned to ensure the decorum. In the meanwhile, the 8th respondent filed Ext.P5(a) complaint against the petitioner alleging that the petitioner has committed sexual harassment at workplace by making sexually coloured remarks. 6. According to the petitioner, the allegation in Ext.P5(a) is that the petitioner has started gossiping around by passing sexually coloured remarks about the attire of the 8th respondent and the petitioner had been circulating lewd about her personality and spreading malicious rumors linking her name with other officials. The petitioner states that the said complaint will not constitute sexual harassment within the meaning of Section 2(n) of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. In order to constitute sexual harassment, the person accused should have made sexually coloured remarks to the victim directly.

7. When the petitioner was required to appear before the Presiding Officer, ICC, the petitioner requested to supply a copy of the statement of the complainant and witnesses. The petitioner also requested for assistance of a Departmental Assistant to defend the proceedings. The Presiding Officer of the 7th respondent-ICC informed the petitioner that copy of the depositions can be handed over only after obtaining specific order from the Disciplinary Authority. On 24.04.2025, the petitioner was served with Ext.P8 memorandum of charges along with statement of imputation of misconduct. The petitioner submitted Ext.P11 explanation. The 3rd respondent appointed an enquiry officer as per Ext.P12. The petitioner requested the enquiry officer to supply copies of additional documents. The documents were not provided stating that those are insulated from publication under Section 16 of the POSH Act.

8. On 15.11.2025, the petitioner was served with Ext.P16 order transferring the

petitioner from Thiruvananthapuram to Karnataka Region, allegedly on administrative grounds. Ext.P16 was followed by Ext.P17 office order. The petitioner states that he has been transferred presumably on the ground of pending disciplinary proceedings. Exts.P16 and P17 orders transferring the petitioner to Karnataka Region is highly illegal and arbitrary.

9. When the petitioner filed W.P.(C) No.44193 of 2025, this Court passed an interim order staying the transfer. Thereupon, the respondents informed that the transfer of the petitioner to Karnataka has been withdrawn. On 24.12.2025, the respondents issued Ext.P15 order transferring 12 officials including the petitioner to various places. The petitioner was transferred to Andhra Pradesh. Ext.P15 order has been challenged in W.P.(C) No.125 of 2026. The petitioner states that he is a protected workman who is exempted from transfer policy. The General Manager sent a communication to the Head Quarters to withdraw the protection given to the petitioner as he has been served with Ext.P4 charge memo. The status of the petitioner as protected workman was thereupon withdrawn as per Ext.P16 communication dated 16.12.2025. The Assistant General Manager issued Ext.P17 communication to the effect that the protected workman status of the petitioner is withdrawn. Exts.P15 to P17 orders are illegal and arbitrary, contended the counsel for the petitioner.

10. The counsel for the petitioner relied on the Division Bench judgment of this Court in Thomas Antony v. State of Kerala [2025 (2) KHC 514] and argued that an enquiry under the POSH Act should be conducted in the form of a disciplinary enquiry to prove misconduct. Relying on the judgment of this Court in Abraham Mathai v. State of Kerala [2024 (7) KHC 493], the counsel for the petitioner argued that the principles of natural justice must be followed in inquiries conducted under the POSH Act.

11. The counsel for the petitioner further relied on the Division Bench judgment of this Court in Krishnakumar S. v. State of Kerala [2022 KHC 864] wherein this Court has held that a transfer is liable to be interfered if it is seen as an order by way of punishment without first holding any disciplinary proceedings to establish the guilt of the employee.

12. Respondents 2 to 8 filed counter affidavit in W.P.(C) No.125 of 2026. The respondents submitted that the petitioner's transfer to Andhra Pradesh Region was effected by the competent authority in the normal course of service administration and in accordance with the transfer policy of the FCI. Transfer is an incidence of service and no employee has a vested right to remain posted in a particular station. The petitioner has been working in Kerala Region since 06.04.2011. The transfer order is not punitive or stigmatic.

13. The Hon'ble High Court of Karnataka in W.P. No.1049 of 2024 has held that even if the charges are of minor offences, even then the workman can be denied the special status of being protected workman. When the pending disciplinary case was noticed, the status of protected workman was withdrawn.

There is no illegality in the action. The writ petition is therefore liable to be dismissed.

14. I have heard the learned counsel for the petitioner, the learned Assistant Solicitor General of India representing the Union of India and the learned Standing Counsel representing respondents 2 to 6.

15. In W.P.(C) No.44193 of 2025, the petitioner is challenging Exts.P16 and P17 orders and also Ext.P8(a) report dated 21.12.2024. By Ext.P16 order, the petitioner was transferred from Divisional Office, Thiruvananthapuram to Karnataka Region on administrative grounds. By Ext.P17 order, the petitioner was relieved of his duties in the Divisional Office, Thiruvananthapuram. During the pendency of W.P.(C) No.44193 of 2025, the respondents have withdrawn Ext.P16 order without prejudice to the rights of the competent authority to issue appropriate orders. Therefore, W.P.(C) No.44193 of 2025 has become infructuous in so far as the reliefs relating to Exts.P16 and P17 orders are concerned.

16. The petitioner also challenges Ext.P8(a) report dated 21.12.2024. Ext.P8(a) report is one submitted by Internal Complaints Committee constituted under the Act, 2013. A disciplinary proceeding is pending pursuant to the Internal Complaints Committee report. Therefore, the petitioner will be getting every opportunity to question the findings if and when the proceedings are taken under Section 13(3)(i) of the Act, 2013. Therefore, no relief in that regard need be granted to the petitioner at this stage.

17. However, the petitioner has a case that he has not been provided copy of statement of the complainant and witnesses and for Department Assistant to defend the proceedings. Those documents are not provided to the petitioner on the ground that the same are insulated from publication in view of Section 16 of the POSH Act.

18. Section 16 only prohibits publication of the contents of the complaint, the identity and address of the aggrieved woman, respondent and witnesses, any information relating to conciliation and inquiry proceedings, recommendations of the internal committee, etc. Section 16 only prevents publication, communication and making the contents known to the public, press and media in any manner. Section 16 shall not disentitle the petitioner to get copies of relevant materials, when the petitioner is facing disciplinary proceedings. Providing copies of relevant documents to the petitioner will not amount to publication / communication / making known to the public, press or media the contents thereof. The petitioner therefore is entitled to receive copies of all relevant materials being relied on by the respondents to sustain the charges against the petitioner.

19. In W.P.(C) No.125 of 2026, the petitioner challenges Exts.P15 to P17 orders. Ext.P15 is the order of transfer whereunder the petitioner stands transferred from Kerala to Andhra Pradesh. Exts.P16 and P17 are communications where

under the status of protected workman of the petitioner is withdrawn.

20. As far as Ext.P15 transfer order is concerned, it is discernible from Ext.P15 that it is a general transfer order whereunder as many as 12 technical cadre officials are transferred from Kerala to various other States like Karnataka, Andhra Pradesh and Telengana. The petitioner is only one among the transferees. The respondents have a specific case that the petitioner has been working in Kerala Region for the last 14 years. In the facts and circumstances of the case, I do not find any reason to conclude that the petitioner is being transferred to Andhra Pradesh by way of victimisation. There are no materials to come to a conclusion that the petitioner has been picked up and chosen for hostile discrimination. The challenge against Ext.P15 is therefore only to be rejected.

21. As regards withdrawal of protected workman status, such status has been conferred on the petitioner for a period of one year from 15.12.2025. The status has been withdrawn in the light of the disciplinary proceedings initiated against the petitioner. I do not find a prima facie case to interfere in Exts.P16 and P17 decisions.

In the facts and circumstances of the case, W.P.(C) Nos.44193 of 2025 and 125 of 2026 are dismissed. However, it is made clear that the petitioner shall be provided with copies of all relevant documents in compliance of the principles of natural justice in order to effectively defend the charges against him. The petitioner shall also be permitted to have Department Assistant to defend the charges.