
(2026) 02 KL CK 1676
In the High Court Of Kerala
Case No : Writ Petition (C) No. 4110 Of 2026

Sivakumar S.

APPELLANT

Vs

State Of Kerala Represented By The Secretary

RESPONDENT

Date of Decision : 12-02-2026

Acts Referred:

Constitution of India, 1950 — Article 226
Indian Penal Code, 1860 — Section 186

Citation : (2026) 02 KL CK 1676

Hon'ble Judges : N. Nagaresh, J

Bench : Single Bench

Advocate : P.Mohandas, K.Sudhinkumar, Sabu Pullan, R.Bhaskara Krishnan, Bharath Mohan, Dr.K.P.Satheesan, Renjith Thampan, Deepu Thankan

Final Decision : Allowed

Judgement

N. Nagaresh, J

1. The petitioner, who is a Selection Grade Assistant working at the Chief Office of KSRTC, has filed this writ petition seeking to quash Ext.P2 memorandum dated 30.01.2026 issued by the 3rd respondent.

2. The petitioner states that he is a regularly recruited employee of the KSRTC, who is in service since 22.04.2010. The petitioner is the District Secretary of the Kerala State Transport Workers Union (INTUC), Thiruvananthapuram North. The workers Union is publishing a periodical which has circulation among the employees of KSRTC.

3. The petitioner published an article regarding the financial position of the KSRTC and the expected prospects of KSRTC after a new Government assumes power. When the petitioner's article was published in the journal, the 3rd respondent transferred the petitioner from Thiruvananthapuram to Kasaragod as per Ext.P2 order dated 30.01.2026. It is a punishment transfer, contends the petitioner.

4. On the same day, Ext.P3 Memorandum of Charges was issued relieving the petitioner from the office. The petitioner states that the article published by the petitioner does not contain any defamatory statement or allegations against the Government or the Management. The only depiction is regarding the present stage of the KSRTC and the future of the KSRTC, if a new Government assumes office. Transferring the petitioner from Thiruvananthapuram to Kasaragod is highly arbitrary.

5. The petitioner cannot be transferred for publication of an article in a house journal. The right of freedom and expression guaranteed under Article 19 of the Constitution of India cannot be curtailed as long as the same is not affecting the existence of the establishment. Exts.P2 and P3 are therefore liable to be quashed.

6. Respondents 2 to 4 resisted the writ petition. The respondents stated that the petitioner published statement contrary to facts with deliberate intention of spreading misleading information about the Corporation and thereby creating unrest and polarisation among the KSRTC employees.

7. The action of the petitioner amounts to grave misconduct and has attracted Section 186 of the IPC, obstructing the public servants of the Corporation to discharge their duty. The conduct of the petitioner disentitles him from any relief under Article 226 of the Constitution of India. The writ petition is therefore liable to be dismissed, contend the respondents.

8. I have heard the learned Senior Counsel Sri. K.P. Satheesan assisted by the learned counsel for the petitioner Sri. Bharath Mohan and the learned Standing Counsel appearing for the KSRTC Sri. Deepu Thankan.

9. Ext.P1 is a house journal of the Kerala State Transport Workers Union affiliated to INTUC. In the January, 2026 issue, the petitioner published an article, which is produced as Ext.P1. In the article, the petitioner has stated that the KSRTC is in a financial distress and has debts. The employees are facing difficulties, resulting in strikes. Due to shortage of spare parts, buses are getting damaged in Depots, affecting rural bus services. There is allegation that experiments like K-SWIFT has helped only to divide the KSRTC.

10. The published article goes on to state that if UDF comes to power in the State, there will be a Management Plan and a pro-labour approach. Through packages, the salary and pension of the employees can be ensured. More buses will be introduced and the Central Government funds will be used to propagate electric buses and CNG buses. UDF will be giving priority to professional management devoid of politics. They will introduce an approach treating the KSRTC as a service rather than profit making business.

11. The respondents have considered the above publication of the article as a misconduct and transferred the petitioner from Thiruvananthapuram to Kasaragod in contemplation of disciplinary proceedings. The respondents relied on a Circular dated 03.11.2021 which prohibits publication of defamatory articles

through new generation media. The respondents stated that publication of the article is a misconduct on the part of the petitioner. The provisions of KCS CCA Rules will apply.

12. In the judgment in *Anil Kumar A.P. v. Mahatma Gandhi University and others* [2018 (4) KLT 649], this Court has held that servitude is an outlook of an individual and not a governing norm in a public Institution. Discipline is a norm. Discipline and servitude are to be distinguished. If an employee speaks out in the social media in a general perspective which is not inconsistent with the collective interest of the Institution, that is part of his right of free speech. No authority should expect one to be silent. Survival of public Institution depends upon how it accounts for democratic values. Free expression is the corner stone of democratic value. Every functionary of public power therefore must command liberty to their constituents.

13. However, I do not intend to pronounce on the sustainability of a disciplinary proceedings for publication of an article by an employee of the KSRTC in an internal house journal. I do not also propose to adjudicate on whether there is any prohibition for the KSRTC employees in publishing articles in journals, as the petitioner will be getting opportunity to advance arguments regarding sustainability of the disciplinary proceedings. Nevertheless, I find that the petitioner stands transferred from Thiruvananthapuram, the southern end of Kerala to Kasaragod, the northern end of Kerala, in contemplation of disciplinary proceedings.

14. An employee can be transferred in contemplation of disciplinary proceedings. Transfers in such cases are made in order to facilitate pure and impartial enquiry. It is so ordered to avoid the delinquent employee influencing the witnesses and manipulating the records in order to escape from punishment. It is in such eventualities alone that a transfer order can be passed for the sole reason that the disciplinary proceedings are contemplated. Without there having any such possibilities, if an employee is transferred, that can be treated as punitive, even if the transfer order does not attach stigma.

15. In the present case, the disciplinary action is contemplated as the petitioner has published an article in a house journal, an extract of which is produced as Ext.P1. The petitioner has not denied publication of the article by him. Therefore, in a disciplinary proceedings, the question arising will be relating to the legality or justifiability of the petitioner publishing the article. In the facts of the case, there is not even a remote chance to conclude that the petitioner will be able to influence witnesses or manipulate records. In the circumstances, I am of the firm view that transferring the petitioner from Thiruvananthapuram to Kasaragod is punitive. The transfer can only be treated as a high handed arbitrary action on the part of the respondents.

The writ petition is therefore allowed. Exts.P2 and P3 are set aside. It is made clear that the respondents will be free to proceed against the petitioner in

departmental proceedings, if the respondents deem it necessary.