
(2014) 07 KL CK 0081
In the High Court Of Kerala
Case No : OP (CAT). No. 127 of 2014 (Z)

Somasundaran V.C.

APPELLANT

Vs

The Principal General Manager, Telecom, Bharat Sanchar
Nigam Limited.

RESPONDENT

Date of Decision : 11-07-2014

Acts Referred:

Citation : (2014) 07 KL CK 0081

Hon'ble Judges : K.M. Joseph, J;A.K. Jayasankaran Nambiar, J

Bench : Division Bench

Advocate : Sumathy Dandapani, Senior Advocate, Millu Dandapani and
Premchand R. Nair, Advocate for the Appellant; Mathews K. Philip, SC, Advocate
for the Respondent

Judgement

K.M. Joseph, J.—The petitioner is an applicant before the Central Administration Tribunal (hereinafter referred to as "the Tribunal" for short) The petitioner has been functioning as Cashier in the respondents' Organisation since 2011 at Ernakulam. He challenges Annexures A8, A13, A15 and also Ext. P5 order of the Tribunal. Annexure A1 is the guidelines which was introduced in the year 2008. There was a clause in Annexure A1 giving exemption for non executive employees having their children studying in 12th standard for one year. But, the same seems to have been taken away for the year 2013 - 14. The petitioner's daughter is studying in 12th Standard. The petitioner filed O.A. NO.180/00416/2014 before the Tribunal which came to be disposed of directing the respondents to consider the petitioner's representation dated 11/6/2014. The petitioner was set at liberty to approach the Tribunal with a fresh O.A. if he was still aggrieved. The petitioner's representation dated 11/6/2014 was considered and disposed of in which the petitioner's request was not considered due to the following reasons:

"i). His tenure as Cashier was over on 12/6/2014 and new cashier has been posted.

ii). As regards the exemption to the parents of students in 12th standard, the same was dispensed with during the High Range Transfer in the year 2013 with the concurrence of the recognized unions.

(iii). There is shortage of staff due to retirement and lack of recruitment. Since the upper age limit for transfer to High range is 56 years there is shortage of officials below 56 years. The High Range transfer is a regular process every year in the Ernakulam SSA. Officials who were transferred to High range areas are to be brought back."

Against the above decision of the respondents, the petitioner preferred O.A. No. 180/00460/2014. The Tribunal took note of the fact that this is a case where, after discussion with the unions, the provision regarding exemption has been dispensed with by the respondent authority. Non availability of officials for posting in high range area was also considered. The original application was dismissed.

2. We heard the learned senior counsel for the petitioner as well as the learned Government Pleader for the respondents.

3. It is elementary that an order of transfer can be interfered only on the grounds of mala fide and violation of statutory provisions. But those grounds do not exist in this case. The learned senior counsel would point out that three months have already lapsed and the petitioner may be permitted to continue till the end of the present academic year so that the petitioner can take care of his daughter who is studying in 12th standard. Our attention was drawn to the judgment of the Apex Court in Director of School Education Madras And Others v. O.Karuppa Thevan And Another {1994 Supp (2) Supreme Court Cases 666}. That was a case where the Apex Court took the view that there is no rule required for exempting employees on the basis that their children are studying, if the exigencies of the service are not urgent. In this case we notice two aspects. Firstly, somebody has already joined here. This means that there is vacancy in the high range and apparently nobody wants to go to the high range. But, the respondent is expected to discharge its duties in the said area also, for which, it requires employees. Therefore, we may not be justified, in the circumstances of the case, to interfere with the order of the Tribunal.

The Original Petition is dismissed.