

(1997) 04 KL CK 0005
In the High Court Of Kerala
Case No : W.A. No. 1467 of 1996

Sukumaran V. and Another

APPELLANT

Vs

Sodaran M.N. and Others

RESPONDENT

Date of Decision : 02-04-1997

Acts Referred:

Citation : (1997) 2 ILR (Ker) 810 : (1997) 1 KLJ 779 : (1998) 1 LLJ 163

Hon'ble Judges : K.G. Balakrishnan, J;B.N. Patnaik, J

Bench : Division Bench

Advocate : C.P. Sudhakara Prasad, for the Appellant; V.N. Achutha Kurup and K.K. Dinesan, G.P., for the Respondent

Final Decision : Dismissed

Judgement

Patnaik, J.—The petitioners in O.P. 14996/96 have preferred this appeal against the order dated October 7, 1996 of the learned single Judge by which their prayer for cancellation of order of transfer from Talappilly to Kunnamkulam and Trichur respectively was rejected.

2. The appellants were working as Senior Accountants in the Sub-Treasury, Talappilly for more than 8 years. By Ext. P1 order issued by the District Treasury Officer, Trichur (Respondent No. 2), the first appellant V. Sukumaran was transferred to Sub-Treasury, Kunnamkulam and the second appellant T.J. Kuruvilla was transferred to Additional Sub-Treasury, Thrissur which are situated at a distance of about 30 Kms. from Talappilly. The appellants contended that the transfer was made by way of punishment on the following grounds:

The first respondent was harassing the appellants due to some union rivalry. The basis of the transfer is the report submitted by him to second respondent, The District Treasury Officer, who in turn sent it to the third respondent-The Director of Treasuries-in connection with the allegation of misbehaviour with a lady employee of the same Sub-Treasury. On the direction of the third respondent, the second respondent recommended for the transfer of the appellants as a

measure of punishment without making any enquiry into the said allegation.

3. It is stated by the respondents that receipt of numerous complaints against the appellants regarding their misbehaviour with the general public, arrogant and recalcitrant attitude towards the superior officers, acts of indiscipline in the office, and above all their persistent ill-treatment to a lady assistant of the same office led the authorities to take this action in the public interest.

4. Learned single Judge by the impugned order found that Ext.P1 order cannot be considered to be one of punitive in nature. The appellants were transferred to the nearest office, that too, within the radius of 30 Kms. from Talappilly. The order of transfer does not cause any inconvenience to the petitioners. No mala fide can be attributed to any of the respondents for causing the transfer of the appellants. With the above observations the learned single Judge dismissed the Original Petition as devoid of any merit and declined to interfere with the order of transfer.

5. Heard counsel on both sides and perused the counter affidavit and the reply affidavit filed by the parties.

6. It is contended by the learned counsel for the appellants that without being satisfied by an enquiry regarding the truth of the allegations made by the husband of the lady employee named Karthiyani about the ill-treatment and harassment and in the absence of any enquiry regarding the counter allegations made by the appellants, passing of an order of transfer is not justified. It is also contended that in passing the impugned order of transfer (Ext.P1), the respondents did not follow the norms agreed to by the employees and the authorities in this regard.

7. There is no dispute that these appellants have been working in the Sub-Treasury at Talappilly for more than 8 years. There is also no dispute that the places to which the appellants have been transferred are not far off from Talappilly.

8. No invariable rule can be laid down prohibiting the concerned authorities to transfer a Government servant from one place to the other as and when necessary in the exigency of administration. Since transfer does not amount to punishment under the Kerala Civil Services (Classification, Control and Appeal) Rules, 1960, no enquiry is necessary before a person is transferred from one place to another. It is the case of the respondents that continuance of the appellants in the Sub-Treasury at Talappilly will cause immense harm to the administration and inconvenience to the general public. In the interest of administration, it was absolutely necessary to transfer them out. Respondent No. 2 as a responsible officer of the State reported that the appellants have harassed and ill-treated a lady employee and committed several acts of indiscipline detrimental to the interest of the office administration. There is no reason to disbelieve his report.

9. It cannot be laid down as a matter of general rule that the norms with regard to the transfer of employees of the Sub-Treasuries do not admit of any exception. It is not shown that the norms had received the approval of the Government as authoritative instructions. In this case, three responsible officers of the state found that the appellants' official conduct is highly reprehensible. Instead of taking any disciplinary action against them, they took a very lenient step in transferring them to the nearby places without causing any inconvenience to them.

10. Unless it is clearly shown that the order of transfer of a Government servant has been made by a competent authority in violation of a statutory rule or Government instruction and that such an order has been made by an authority with a mala fide intention or for extraneous considerations, the High Court shall not ordinarily invoke its jurisdiction under Article 226 of the Constitution of India to interfere with it. No such case has been made out by the appellants. Learned single Judge has, therefore, rightly dismissed the Original Petition as being devoid of any merit. We confirm the same.

11. In the result, the appeal is dismissed. No costs.