

(2021) 01 KL CK 0347

In the High Court Of Kerala

Case No : Writ Petition (C) No. 29187 Of 2020

T.P. Alias

APPELLANT

Vs

Managing Director Of Kerala Water Authority And Ors

RESPONDENT

Date of Decision : 14-01-2021

Acts Referred:

Citation : (2021) 01 KL CK 0347

Hon'ble Judges : Anu Sivaraman, J

Bench : Single Bench

Advocate : K.N. Chandrababu, Anil Prabha K, Bijoy Chandran

Final Decision : Dismissed

Judgement

1. The writ petition is filed with the following prayers:-

i. a Writ of Certiorari or such other writ, direction or order quashing Exhibit-P1 to the extent to which it is prejudicial to the interest of the petitioner.

ii. a Writ of Certiorari or such other writ, direction or order quashing Exhibit-P9 and P10, as illegal.

iii. A writ of mandamus or such other writ, direction or order directing the 5th respondent to consider and pass orders in Exhibit-P8 appeal in accordance with law.

2. Heard learned counsel for the petitioner and learned standing counsel appearing for the respondents.

3. It is submitted that the petitioner has been working in the Office of the Public Health Division at Pallimukku, Ernakulam, as Meter Reader. The

petitioner is due to retire on superannuation in the month of March, 2021. While so, Exhibit-P1 order of transfer has been issued by the 1st respondent.

It is submitted that three more vacancies exist even before issuance of Exhibit-P1 as evident from Exhibit-P2. Exhibit-P3 is a representation submitted

by the petitioner against the order of transfer and that the same is not considered by the 1st respondent. Therefore, the petitioner preferred W.P.

(C).No.21640/2020 before this Court. As per Ext.P4 judgment, this Court disposed of the writ petition by giving a direction to the competent

respondent to take up Ext.P3 representation and pass orders on the same, after hearing the petitioner. It is submitted that Exhibit P5 hearing notice

was issued by the Chief Engineer (HRD & L) contending that he is not the 'competent authority'. The petitioner submitted Ext.P7 application for

adjournment. It is submitted that the 1st respondent never heard the petitioner. Ext.P3 was only a representation submitted before the 1st respondent,

Ext.P8 appeal has been submitted by the petitioner before the 5th respondent. Pending consideration of the above appeal, the 1st respondent issued

Ext.P9 order rejecting Ext.P3 request of the petitioner.

4. The learned counsel for the petitioner submits that the petitioner was not heard before Ext.P9 order was passed and the contentions raised by the

petitioner were not considered. The learned counsel for the respondents submits that a reading of Ext.P9 itself would show that the petitioner had

been put on notice and heard before the order was passed. It is submitted that the contention that the hearing was not conducted by the 1st respondent

is incorrect. It is submitted that since the issue was only with regard to the shifting of post within the domicile district itself, no difficulty of any nature

has been caused to the petitioner.

5. I have considered the contentions advanced on either side at considerable length. It is seen that by Ext.P1, the post held by the petitioner had been

shifted from the Ernakulam sub division office Section 1 to Vadakkekara in the Nedumbassery sub division. Ext.P1 would show that it was as part of

the financial control measures owing to the outbreak of Covid-19 pandemic and the consequent lock-down that the rearrangement of the existing staff

pattern had been carried out. It is seen that several posts had been shifted by Ext.P1. This aspect of the matter was considered in Ext.P4 judgment

also. The representation submitted by the petitioner was directed to be considered by the competent authority in the respondent and to pass orders

thereon. It appears that the petitioner had submitted objections to the hearing of

the matter by the Chief Engineer, HRD and General and submitted representation seeking consideration of the issue by the Managing Director. Ext.P9 is a proceedings issued by the Managing Director. Ext.P9 specifically states that notice was given for hearing through video conferencing 30.10.2020 and due to the non availability of the petitioner, he was heard over phone. The finding in Ext.P9 is to the effect that Ext.P1 is not a transfer at all and is only a reorganization of the staff strength as a part of the financial stringency measures. It is noticed that the petitioner is a resident of Chengamanad in Ernakulam district. His post has been shifted to Vadakkekara in the Nedumbassery sub-division. The petitioner, who was an employee of the Water Authority, cannot raise a claim that he is entitled to work at one particular station of his choice. Transfer as well as shifting of posts are measures adopted by the employer in exigencies of service. The contentions raised by the petitioner that he was liable to be continued at the present station itself in spite of the administrative exigencies, therefore, cannot be accepted.

6. In the facts and circumstances of the case, I am of the opinion that the grounds raised by the petitioner against Ext.P9 are not sustainable.

The writ petition fails and the same is accordingly dismissed.