

Kerala High Court

A.Mohammed Kunju vs The Director Of Homoeopathy on 14 July, 2008

IN THE HIGH COURT OF KERALA AT ERNAKULAM

WP(C).No. 18821 of 2008(N)

1. A.MOHAMMED KUNJU, SENIOR SUPERINTENDENT,  
... Petitioner

Vs

1. THE DIRECTOR OF HOMOEOPATHY,  
... Respondent

2. THE DISTRICT MEDICAL OFFICER

3. STATE OF KERALA, REPRESENTED BY

4. R.RAJAN, JUNIOR SUPERINTENDENT,

For Petitioner :SRI.GOPAKUMAR R.THALIYAL

For Respondent :SRI.VIJAYAN. K.U.

The Hon'ble MR. Justice V.GIRI

Dated :14/07/2008

O R D E R

V. GIRI, J.

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WP(C).NO. 18821 of 2008  
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Dated this the 14th day of July, 2008.

JUDGMENT

The petitioner while working as Junior Superintendent in the Health Services Department was promoted and posted as Senior Superintendent in the District Medical Office, with effect from 19.8.2006. Ext.P2 contains the draft proposal for transfer in the Health Services Department and it proposes the transfer of the petitioner from Pathanamthitta to Allapuzha. It was objected to by the petitioner. As per Ext.P3 order he has been transferred to Thrissur. This is challenged by the

petitioner inter alia on the ground that his transfer to Thrissur is only to accommodate the 4th respondent who is an office bearer of the NGO union and who was only recently promoted as Senior Superintendent.

2. A counter affidavit has been filed on behalf of the first respondent. The 4th respondent has also filed a counter affidavit. The petitioner has filed a reply affidavit. Learned counsel for the petitioner alleges that there is violation of the norms in the matter of petitioner's transfer to Thrissur. The transfer is for accommodating the 4th respondent, it is contended, and therefore it is vitiated by malafides.

Mere violation of the guidelines relating to transfer which are not statutory in character will not result in an enforceable right as such. I am not able to find anything material to accept the case of the petitioner in this regard, but I do not finally express any opinion in this regard. In my view, it is open to the petitioner to move the Government either seeking a variation of the transfer or a posting nearer to his native district of Kollam.

In the result, the writ petition is disposed of permitting the petitioner to move the Government against Ext.P3. If it is done within three weeks from today, the third respondent shall consider and pass orders in that regard, within a period of four weeks from the date of receipt of a copy of this judgment. Since the petitioner has not been relieved from Pathanamthitta on account of the order of status quo passed on 23.6.2008, he shall be retained in Pathanamthitta till the Government takes a decision in the manner aforementioned. The Government shall hear the petitioner and the 4th respondent before taking a decision in that regard.

V. GIRI, JUDGE.

Pmn/

WPC .18821 /2008 3