

## IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

MONDAY, THE 6<sup>TH</sup> DAY OF MARCH 2023 / 15TH PHALGUNA, 1944WP(C) NO. 6561 OF 2023PETITIONER:

SMT. NIXY JAMES,  
W/O. SIBY PHILIP, SUPERINTENDENT, THE KERALA STATE ROAD  
TRANSPORT CORPORATION, DISTRICT OFFICE, THRISSUR,  
PIN - 680001 (NOW UNDER ORDERS OF TRANSFER TO THALASSERY UNIT  
OFFICE) RESIDING AT NELLIKUNNATH HOUSE, CHIYYARAM.P.O.,  
THRISSUR, PIN - 680026

BY ADV O.D.SIVADAS

RESPONDENTS:

- 1 THE KERALA STATE ROAD TRANSPORT CORPORATION  
TRANSPORT BHAVAN, THIRUVANANTHAPURAM, PIN - 695001  
REPRESENTED BY ITS MANAGING DIRECTOR.
- 2 THE CHAIRMAN AND MANAGING DIRECTOR,  
KERALA STATE ROAD TRANSPORT CORPORATION, TRANSPORT BHAVAN,  
THIRUVANANTHAPURAM, PIN - 695001
- 3 THE EXECUTIVE DIRECTOR,  
(ADMINISTRATION) KERALA STATE ROAD TRANSPORT CORPORATION,  
TRANSPORT BHAVAN, THIRUVANANTHAPURAM, PIN - 695 001.
- 4 THE DISTRICT OFFICER,  
KERALA STATE ROAD TRANSPORT CORPORATION, THRISSUR,  
PIN - 680001

BY ADVS.  
DEEPU THANKAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
06.03.2023, ALONG WITH WP(C).6786/2023, THE COURT ON THE SAME DAY  
DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

MONDAY, THE 6<sup>TH</sup> DAY OF MARCH 2023 / 15TH PHALGUNA, 1944

WP(C) NO. 6786 OF 2023

**PETITIONER:**

SANDHYA G NAIR  
W/O K. G SURESH KUMAR, AGED 48 YEARS, SURASANDHYA HOUSE,  
THAMARAYUR P.O., KOTTAPPADI, GURUVAYOOR, 680505,  
SUPERINTENDENT, KSRTC, DISTRICT OFFICE, TRISSUR.

BY ADV SAJEEV KUMAR K.GOPAL

**RESPONDENTS:**

- 1 THE KERALA STATE ROAD TRANSPORT CORPORATION  
REPRESENTED BY CHAIRMAN AND MANAGING DIRECTOR, TRANSPORT  
BHAVAN, THIRUVANANTHAPURAM, PIN - 695023
- 2 THE CHAIRMAN AND MANAGING DIRECTOR  
THE KERALA STATE ROAD TRANSPORT CORPORATION, TRANSPORT  
BHAVAN, THIRUVANANTHAPURAM, PIN - 695023
- 3 THE EXECUTIVE DIRECTOR (VIGILANCE)  
THE KERALA STATE ROAD TRANSPORT CORPORATION, CHIEF OFFICE,  
THIRUVANANTHAPURAM, PIN - 695023
- 4 THE EXECUTIVE DIRECTOR (ADMINISTRATION)  
THE KERALA STATE ROAD TRANSPORT CORPORATION, CHIEF OFFICE,  
THIRUVANANTHAPURAM, PIN - 695023
- 5 THE DISTRICT TRANSPORT OFFICER  
THE KERALA STATE ROAD TRANSPORT CORPORATION, DISTRICT  
OFFICE, THRISSUR, PIN - 680021

BY ADV DEEPU THANKAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
06.03.2023, ALONG WITH WP(C).6561/2023, THE COURT ON THE SAME DAY  
DELIVERED THE FOLLOWING:

SATHISH NINAN, J.

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W.P.(C) Nos.6561 & 6786 of 2023

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Dated this the 6<sup>th</sup> day of March, 2023

J U D G M E N T

The petitioners in these writ petitions are employees of the respondent Corporation. They are working as Superintendents at the District Office, Thrissur. They are under orders of transfer (Ext.P1 in the respective writ petitions, which are one and the same order). The same is under challenge.

2. Heard Sri.O.D.Sivadas and Sri.Sajeev Kumar K. Gopal for the respective petitioners, and Sri.Deepu Thankan, learned Standing Counsel for the Corporation.

3. Under Ext.P1 transfer order, three employees were transferred. Among one of them is Kavitha V. Nair who was working as an Assistant at the District Office, Thrissur, and the other two are the petitioners working in the same office as Superintendents. Ext.P1 mentions misbehaviour and lack of co-operation between them. The reason for transfer as stated in Ext.P1 is, for the

smooth and proper functioning of the office.

4. Ext.P1 order of transfer was based on a report obtained through the Executive Director (Vigilance), of the Corporation. A copy of the report submitted by the Executive Director (Vigilance) has been produced by the respondent along with their counter affidavit, as Ext.R1(b). The learned counsel for the petitioners would contend that a perusal of Ext.P1 and Ext.R1(b) would reveal that, the entire allegations are regarding the misconduct of the Assistant-Smt. Kavitha V. Nair, and that there is hardly any reference to the petitioners. To regain the smooth atmosphere in the office, it would have been sufficient to transfer the said Assistant - Kavitha V. Nair; orders of transfer of the petitioners were totally unnecessary, it is contended.

5. The learned Standing Counsel for the Corporation would on the other hand contend that, as is evident from Ext.R1(b) report and as mentioned in Ext.P1 order, the

misbehaviour of the petitioners and the Assistant has seriously affected the functioning of the office. It is to maintain the smooth functioning of the office, that orders of transfer have been issued. The order of transfer is based on administrative exigencies and may not be interfered with by this Court, it is contended.

6. Law is too well settled that, transfer is an incidence of service and the employee has no legal right in this behalf. It is also well settled that, unless the orders of transfer is vitiated by statutory violations or mala fides, Courts should be loathe in interfering with the same. Courts will be extremely circumspect, will act with restraint and may not ponder into hairsplitting arguments, to scan the decisions in orders of transfer. The Corporation cannot effectually work when the employees act intolerably or spitefully amongst themselves or is engaged in activities which go against the best interests of the Corporation. Transfer can be effected on administrative grounds as long as it is

intended to aid proper administration and to subserve internal discipline.

7. When an employee is transferred to maintain the smooth running of an organization, it is not to be understood as a punishment. The element of punishment is absent therein. The idea is to maintain the internal harmony of the organisation and to safeguard its smooth functioning. In every case of erratic or inappropriate behaviour by a subordinate, the employer is not bound to initiate departmental action and to impose punishment. For effecting a transfer, there need not be any enquiry conducted to first ascertain whether there was misbehaviour or conduct unbecoming of an employee. To hold otherwise would frustrate the very purpose of transferring an employee in public interest or exigencies of administration, to enforce a decorum and ensure probity.

8. The question whether an employee is to be transferred to a different division etc. are matters for

the employer to consider depending upon the administrative necessities. The power to transfer an employee in a transferable service is within the prerogative of the employer. It is he who knows best, where an employee should be deployed for an effective discharge of his/her duties for the establishment. The inconvenience caused to the employee and his family consequent on the transfer are not sufficient to interfere with the orders of transfer. A transfer can always be done in public interest. (*Babu v. State of Kerala* 1988 (2) KLT 258, *Vasu v. High Court of Kerala* 1989 (1) KLT 16, *Dinamony v. Dt. Superintendent of Police, Kollam* 1994 (1) KLT 326, *P. Pushpakaran v. Chairman, Coir Board (Ker.)* 1979 (1) SLR 309, *Rajan v. Director General of Police* 1999 (2) KLT 673, *Shilpi Bose v. State of Bihar* 1991 Supp. (2) SCC 659, *Union of India v. S. L. Abbas* 1993 (4) SCC 357, *National Hydroelectric Power Corporation Ltd. v. Shri Bhagwan* 2001 8 SCC 574, *Union of India and Others v. Sri Janardhan Debanath and Another* 2004 (4) SCC 245, *Divyamol R. S. v. Director*

***General Central Industrial Security Force, New Delhi and Others 2022 (5) KHC 732).***

9. In addition to the law on transfers as noticed supra, it is appropriate to refer to clause 11 of the Transfer Guidelines in Appendix-IV of the Long-Term Settlement Agreement, 2012 of the Corporation. A copy of the same has been produced along with the counter affidavit as Annexure-R1(a). Clause 11 thereof deals with ***“Transfer on Administrative ground due to disciplinary issues”***. Therefore, the Corporation is enabled even under the Transfer Guidelines to effect transfers of its employees on administrative grounds, to maintain a harmonious and working atmosphere at its offices.

10. In the case at hand, from the report of the Executive Director (Vigilance), the authorities were satisfied that there is disharmony in the office caused at the instance of the persons who are under orders of transfer in Ext.P1, including the petitioners. It was noticed that the smooth functioning of the office is



W.P.(C) 6561 & 6786 of 2023

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affected. It is taking note of such circumstances that Ext.P1 transfer order has been issued.

11. There is no material to infer malice or malafides on the part of the authority, much less is there any such allegation. The orders of transfer warrant no interference.

Resultantly, the writ petitions are dismissed.

Sd/-  
**SATHISH NINAN**  
**JUDGE**

kns/-

//True Copy//

P.S. to Judge

**APPENDIX OF WP(C) 6786/2023**

PETITIONER EXHIBITS

EXHIBIT P1 TRUE COPY OF THE ORDER NO (A & V) B1/1570/23  
DATED 23/02/23 ISSUED BY THE 4TH RESPONDENT .

RESPONDENT EXHIBITS

EXHIBIT R-1 (B) A TRUE COPY OF THE REPORT SUBMITTED BY THE  
THIRD RESPONDENT DATED 15/02/2023

EXHIBIT R-1 (A) A TRUE COPY OF THE TRANSFER GUIDELINES  
ATTACHED AS APPENDIX IV TO THE LONG-TERM  
SETTLEMENT AGREEMENT 2012

PETITIONER EXHIBITS

EXHIBIT P2 TRUE COPY OF THE REPRESENTATION SUBMITTED BY  
THE PETITIONER DATED 24/02/2023 BEFORE THE  
2ND RESPONDENT.

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**APPENDIX OF WP(C) 6561/2023**

PETITIONER EXHIBITS

Exhibit P1

TRUE COPY OF THE MEMORANDUM DATED 23.02.2023,  
ISSUED BY THE 3RD RESPONDENT, TRANSFERRING  
THE PETITIONER FROM DISTRICT OFFICE, THRISSUR  
TO THALASSERY UNIT OFFICE,

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