



GOVERNMENT OF KERALA

Abstract

Higher Education Department – Govt.Law Colleges – Transfer and postings of Principals of Govt Law Colleges – Direction contained in the Order issued by Hon'ble KAT dated 26/06/2018 in OA 602/17 filed by Dr.K.R.Reghunathan- Complied with – Orders issued.

HIGHER EDUCATION (C) DEPARTMENT

G.O.(Rt)No.2053/2018/HEDN

Dated,Thiruvananthapuram, 14/11/2018

- Read 1 G.O(Rt) No.991/2014/HEdn dated 22/05/2014.
2 G.O(Rt) No.685/2015/HEdn dated 31/03/2015.
3 G.O(Rt) No.610/2017/HEdn dated 29/03/2017.
4 G.O(Rt) No.637/2017/HEdn dated 31/03/2017.
5 Order of the Hon'ble Kerala Administrative Tribunal dated 26/06/2018 in O.A.No.602 of 2017.

ORDER

1. Dr.K.R.Reghunathan, Principal Govt.Law College , Ernakulam had filed an OA 602/17 against the Government Order read as 3rd paper above, before the Hon'ble KAT challenging his transfer to the Government Law College, Ernakulam within two days of his posting in Govt.Law College, Thiruvananthapuram as Principal.

2. The applicant was earlier promoted to the post of Principal on 22.05.2014 as per Government Order read in first paper above, following the procedure under Rule 28(b)(i) of Part II of KS &SSRs and posted in Govt.Law College, Kozhikode and later transferred to Govt.Law College, Thiruvananthapuram as per Government Order read as 2nd paper above.

3.However, in the light of the Hon'ble High Court in its judgement dated 23.02.2016 in WA No.1676/13 and connected cases, had ordered that in view of adoption of UGC regulations by the State of Kerala with effect from 18.09.2010, the Universities and affiliated colleges in Kerala are bound to comply with the UGC Regulations 2010 and the selections held thereafter can only be in compliance with the said regulations. Hon'ble High Court has also directed that the appointing authorities concerned shall have to consider the claims of the petitioners in accordance with their qualification, seniority and suitability along with other eligible candidates and make appointments in accordance with Law.

4.Accordingly, the promotions awarded to the Principals in Government Law Colleges were reverted and temporary promotions were ordered as per Rule 31(a)(1) Part II KS&SSRs ,considering qualification prescribed in the UGC regulations. Thus all the existing Principals who were promoted to the cadre of Principal as per KS&SSRs on the basis of seniority in Government Law Colleges were reverted as per Government Order read as 3rd paper above.

5. In the above order, the applicant was posted in Govt.Law College, Thiruvananthapuram and Dr.R.Bijukumar (2nd respondent) was posted in Govt.Law College, Ernakulam. Subsequently

,in view of the administrative convenience, the applicant and 2nd respondent were mutually transferred vide Government Order read as 4th paper above against which the applicant had filed this OA.

6. As per the direction contained in the order of Hon'ble KAT dated 26/06/2018, both the applicant and second respondent were heard on 06.10.2018. During the hearing, the applicant has contented that he was posted as Principal, Govt.Law College, Kozhikode on 23.05.2014 and thereafter transferred to Govt.Law College, Thiruvananthapuram on 01.04.2015. On 31.03.2017, he was transferred to the post of Principal, Govt.Law College, Ernakulam. He further clarified that he is eligible for getting a transfer to Govt.Law College, Thiruvananthapuram on account of following reasons.

- a. His date of superannuation is on 31.05.2020 and hence there is only one year and seven months remaining for the retirement.
- b. His homestation is Thiruvananthapuram & his wife who is employed at Nedumangad is alone.
- c. The applicant is holding the post of State President of Kerala Govt.Law College Teacher's Associations.
- d. He has Malabar service as Principal and Lecturer in Law for 6 Academic years.
- e. He is a severe diabetic patient and undergoing treatment for the past 15 years.
- f. He was unlawfully transferred to Govt.Law College Ernakulam before completing three years service at Thiruvananthapuram.

7.The contention raised by the 2nd respondent is that as per the seniority list applicable to Govt.Law College published as G.O(P)No.34/2017/HEdn, the 2nd respondent is 6th and the applicant is 8th in seniority. He also contented that he has two years of outstation service and the applicant is having only one year of outstation service. On going through the Order of Hon'ble KAT it is seen that all the allegations of violation of norms raised by the applicant was rejected. But the Tribunal was not happy with two aspects. One is transferring the applicant within two days of posting at Thiruvananthapuram and another is that the Government did not mention the factors of administrative convenience.

8. In fact, the applicant has mislead and misrepresented the Tribunal in the matter of his actual posting at Thiruvananthapuram as he was continuing at Govt Law College, Thiruvananthapuram from 04.4.2015. The Order dated 29/03/2017 covered by G.O(Rt)No.610/2017 was issued to implement a High Court decision. Through that order the applicant was reverted in seniority and allowed to continue at Thiruvananthapuram. Thus, factually he was at Thiruvananthapuram from 04/04/2015 to 31/03/2017. Since principals are promoted at the fag end of their career, the three year protection available to other employees cannot be made applicable in the case of transfer of Principals. It is settled rule that the norms of transfer are not binding rules and that the administrative convenience always overrides other norms. It is also settled rule that an employee has no right to be transferred to particular station. Norms are only

guidelines. Eventhough the factors constituting administrative convenience are not mentioned in the transfer order ,the Government might have considered those factors. The 2nd respondent has requested to treat the reply submitted before the Tribunal by the Government as part of this statement for the purpose of disclosing administrative convenience and to treat his reply filed before the Tribunal as part of this statement. During the hearing, the 2nd respondent also informed that the applicant in utter disregard of the transfer Order trespassed into the Principal's chamber at Government Law College, Thiruvananthapuram and put his signatures in the attendance register eventhough the 2nd respondent had already taken charge in obedience to the transfer order.

9. The second respondent has also contended that since it is now the far end of mid-academic year, any transfer at present will not be in the interest of the students and the institution as a whole. It is also alleged that the above KAT Order was obtained by the applicant by misleading the court that he was transferred within two days of posting at Thiruvananthapuram.

10. Government have examined the matter in detail. The request for transfer of Dr.K.R.Reghunathan, Principal Govt.Law College, Ernakulam to Govt.Law College, Thiruvananthapuram, will be considered in the next year alongwith the genral transfer of government Law College teacher as transfer in the middle of the academic year will adversely affect both the institutions. The direction of the Hon'ble KAT in Order dated 26.06.2018 is thus complied with.

(By order of the Governor)
SWAPNA.P
UNDER SECRETARY

To:

The Principal, Govt. Law College (Thiruvananthapuram/Ernakulam/Thrissur/Kozhikode)

Dr.K.R.Reghunathan, Principal, Govt Law College, Ernakulam

Dr.R.Biju kumar, Principal, Govt. Law College, Thiruvananthapuram

The Advocate General, Ernakulam. (With C/L)

The Accountant General (A&E), Kerala, Thiruvananthapuram.

The Accountant General (A&E), Nagambadam, Kottayam

I&PR Department.

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Section Officer