



WA NO. 525 OF 2025

1

2025:KER:30710

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

&

THE HONOURABLE MR.JUSTICE MURALEE KRISHNA S.

THURSDAY, THE 10TH DAY OF APRIL 2025 / 20TH CHAITHRA, 1947

WA NO. 525 OF 2025

AGAINST THE JUDGMENT DATED 04.03.2025 IN WP(C) NO.44 OF 2023
OF HIGH COURT OF KERALA

APPELLANT/PETITIONER:

SURAJ P.S.,
AGED 43 YEARS,
S/O. SIVANANDAN B SURAJNIVAS, PLACKAL HOUSE,
MANNAM P.O, ERNAKULAM, PIN - 683520.

BY ADVS.
T.R.S.KUMAR
AKSHAY JOSEPH ADHIKARAM
DEENA JOSEPH
DEEPA R MENON
SONA MARIA PAULOSE
THUSHARKRISHNAN K.U.

RESPONDENT/RESPONDENT:

THE KERALA STATE BEVERAGES
(MANUFACTURING AND MARKETING) CORPORATION LTD.,
REPRESENTED BY ITS MANAGING DIRECTOR BEVCO TOWER,
VIKASBHAVAN P.O. PALAYAM, THIRUVANANTHAPURAM,
PIN - 695033.

OTHER PRESENT:

SRI. NAVEEN T. SC, KERALA STATE BEVERAGES CORPORATION

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 25.03.2025,
THE COURT ON 10.04.2025 DELIVERED THE FOLLOWING:



J U D G M E N T

Muralee Krishna, J.

This is an appeal filed under Section 5(i) of the Kerala High Court Act, 1958, by the petitioner in W.P.(C) No.44 of 2023, impugning the judgment of dismissal dated 04.03.2025 passed by the learned Single Judge, in the writ petition filed by the petitioner under Article 226 of the Constitution of India, seeking a writ of certiorari to quash Ext.P2 order dated 28.12.2022 by which the request of the petitioner to retain him at Chalakudy Warehouse or to transfer him to the office of Regional Manager at Thrippunithura was dismissed by the respondent.

2. The appellant has been serving as Senior Assistant at the Chalakudy Warehouse of the respondent in Thrissur District. On 20.10.2022, he was transferred to the Warehouse situated at Battathur of Kasaragod District and in that order, it was stated that the transfer is in connection with a disciplinary report issued by the Warehouse Manager of Chalakudy on 17.10.2022. The appellant challenged that order by filing W.P.(C) No.34008 of 2022 before this Court. Vide; Ext.P1 judgment dated 22.11.2022, the writ petition was disposed of by this Court directing the appellant to approach the respondent with an appropriate representation to



place him in any available vacancy closer to his place of residence within one week from the date of receipt of a copy of that judgment and the respondent was directed to consider the same within two weeks therefrom. The appellant then submitted a representation on 01.12.2022 to the respondent and it was dismissed by Ext.P2 order dated 28.12.2022. Thereafter, the appellant filed W.P.(C)No.44 of 2023 before this Court and by the impugned judgment dated 04.03.2025, the learned Single Judge dismissed the writ petition holding that the transfer order of the appellant is neither against the Service Rules nor mala fide.

3. Heard the learned counsel on both sides.

4. The learned counsel for the appellant would submit that the appellant was transferred to Kasaragod from Chalakudy as a part of disciplinary action, which is highly illegal and against the principles of natural justice. There are vacancies available in the nearby locality of the appellant and it is without initiating any disciplinary proceedings, his transfer was ordered. His father is aged 80 years and his mother is aged 73 years, who are suffering from old age diseases and are depending on him.

5. On the other hand, the learned counsel for the respondent would submit that the transfer of the appellant is as a



part of office administration and has no connection with the disciplinary proceedings, though there are allegations of indiscipline against the appellant.

6. On a query made by this Court, the learned counsel for the respondent would submit that there is no transfer policy for the respondent Corporation. The learned counsel maintained the stand that the transfer of the appellant is not as a part of disciplinary proceedings. However, from paragraph 8 of the counter affidavit filed by the respondent, it could be gathered that according to the respondent, the continuation of the appellant at the Chalakudy Warehouse would be detrimental to the smooth conduct of the disciplinary proceedings contemplated against the appellant and he had continuously disobeyed the orders of the superior officers and it was in that circumstance, he was transferred to Battathur Warehouse at Kasaragod. Paragraph 8 of the counter affidavit reads thus:

"8. In this regard it is submitted that there were previous instances of disobedience and dereliction of duty by the Petitioner. There were instances of continuous non co-operation, dis-obedience of office orders etc. by the petitioner. It is submitted that the continuation of the Petitioner at Chalakudy warehouse would be detrimental to the smooth conduct of the disciplinary proceedings



contemplated against him. Since the Petitioner had continuously disobey the orders of the superior officers and there were several instances of dereliction of duties, he cannot be accommodated in any of the retail outlets of the corporation. It is in the above circumstances the Petitioner was transferred to Battathur warehouse. The action of the Corporation transferring the Petitioner to Battathur warehouse as a part of the disciplinary proceedings is perfectly legal and justifiable.”

7. The circumstance under which the Court can interfere with the orders of transfer by exercising the jurisdiction under Article 226 of the Constitution of India is laid down by the Apex Court as well as this Court in several judgments.

8. In **Union of India v. S.L Abbas [(1993) 4 SCC 357]** the Apex Court held thus:

“Who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by mala fides or is made in violation of any statutory provisions, the court cannot interfere with it. While ordering the transfer, there is no doubt, the authority must keep in mind the guidelines issued by the Government on the subject. Similarly if a person makes any representation with respect to his transfer, the appropriate authority must consider the same having regard to the exigencies of administration.”

(emphasis supplied)



9. In **National Hydroelectric Power Corporation Ltd v. Shri Bhagwan [(2001) 8 SCC 574]** the Apex Court held thus:

“It is by now well-settled and often reiterated by this Court that no Government servant or employee of public Undertaking has any legal right to be posted forever at any one particular place since transfer of a particular employee appointed to the class or category of transferable posts from one place to other is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of mala fide exercise of power or stated to be in violation of statutory provisions prohibiting any such transfer, the Courts or the Tribunals cannot interfere with such orders as a matter of routine, as though they are the Appellate Authorities substituting their own decision for that of the Management, as against such orders passed in the interest of administrative exigencies of the service concerned.” (emphasis supplied)

10. In **Pubi Lombi v. State of Arunachal Pradesh and others [2024 SCC Online SC 279]** the Apex Court held thus:

“In view of the foregoing enunciation of law by judicial decisions of this Court, it is clear that in absence of (i) pleadings regarding malafide, (ii) non-joining the person against whom allegations are made, (iii) violation of any statutory provision (iv) the allegation of the transfer being detrimental to the employee who is holding a transferrable post, judicial interference is not warranted. In the sequel of



the said settled norms, the scope of judicial review is not permissible by the Courts in exercising of the jurisdiction under Article 226 of the Constitution of India.”

(emphasis supplied)

11. This Court in **Mayadevi M.P and another v. Canara Bank and others [2015 (4) KHC 874]** held that an order of transfer cannot be interfered with in a proceedings under Article 226 of the Constitution of India, in the absence of any specific allegation of mala fides or at least a prima facie proof of vitiating circumstances influencing that order of transfer. It is far too late in the day to assert that, this Court in exercise of its jurisdiction under Article 226 of the Constitution of India can interfere with an order of transfer of an employee as if it is sitting in appeal over such an order issued by the employer. The scope of judicial review in this area is very limited. Unless mala fides or oblique motives are specifically pleaded or can necessarily be inferred from the proof of facts, this Court cannot interfere with an order of transfer of an employee. Therefore, a mere assertion in the writ petition that, the orders of transfer are 'vitiating by extraneous considerations and imbued with mala fides', cannot therefore sound in realms of mala fides or extraneous considerations or oblique motives. The concept being basically different, this Court



cannot even draw an inference that the order of transfer issued by the employer is vitiated by mala fides or on extraneous considerations or with oblique motives, unless it is specifically pleaded in the writ petition with reliable materials, which are sufficient to draw an inference of any vitiating circumstances influencing such an order of transfer.

12. Again, in **Nixy James v. Kerala State Road Transport Corporation [2023 (3) KLT 893]**, this Court held that 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 are vitiated by statutory violations or mala fides, Courts should loathe to interfere with the same.

13. Though the appellant contends that his transfer from Chalakudy to Kasaragod is as a part of disciplinary action, in the counter affidavit filed by the respondent, it is stated that such a transfer is necessitated not as a part of disciplinary action but for the smooth conduct of the disciplinary proceedings. It is trite that whether an employee is to be transferred to a different division, etc, are matter 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 the employer who knows best where an employee should be deployed for an effective discharge of his or her duties for the establishment. The inconveniences caused to the employee and his family consequent to the transfer are not sufficient to interfere with the orders of transfer. Generally, the Court exercising writ jurisdiction under Article 226 of the Constitution of India would not interfere in the orders of transfer of an employee issued by the employer, for administrative reasons, as it will adversely affect the smooth functioning of that institution. The learned counsel for the respondent submitted that there is a shortage of manpower in the Battathur Warehouse of the respondent at Kasaragod. Unless it is shown that the order of transfer is issued in violation of the statutory provisions or is issued with mala fides, the Court exercising extraordinary jurisdiction under Article 226 of the Constitution of India loathe to interfere in such matters. Such a pleading regarding statutory violation or malafides in the order of transfer is completely absent in the instant writ petition.

14. Having considered the pleadings and materials on record and the submissions made at the bar, we find no sufficient



ground to interfere with the impugned judgment of the learned Single Judge.

In the result, the writ appeal fails and accordingly stands dismissed.

Sd/-

ANIL K. NARENDRAN, JUDGE

Sd/-

MURALEE KRISHNA S., JUDGE

DSV/-



APPENDIX OF WA 525/2025

APPELLANT' S ANNEXURES

Annexure A1	THE TRUE COPY OF CHARGE MEMO ISSUED TO APPELLANT NO: 25211/AE16/2022/KSBC DATED 27/10/2022.
Annexure A2	TRUE COPY OF OFFICE ORDER DURING THE PERIOD FROM 1.10.2022 TO 26.12.2022.
Annexure A3	TRUE COPY OF REPLY IN RESPONSE TO MEMO NO: KSBC/3634/2024-AE-16 DATED 03.10.2024.
Annexure A4	TRUE COPY OF COMPLAINT FILED BY APPELLANT ABOUT THE IRREGULARITIES IN STOCK DATED 29.08.2024.
Annexure A5	TRUE COPY OF THE REPORT AGAINST THE APPELLANT DATED ON 31.08.2024.
Annexure A6	TRUE COPY OF MEMO ISSUED BY INTERNAL AUDITOR DATED 16.10.2024.
Annexure A7	TRUE COPY OF REPLY BY APPELLANT DATED 5.12.2024.