

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO...../2001@@
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(arising out of SLP(C) 11645/2001)

K.Gopakumar ...Appellant

Vs.

P.K.Ayyappan & Ors. ...Respondent

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Leave granted.

This matter earlier has been adjourned on two occasions to enable the respondents to file a counter affidavit. But notwithstanding the same no counter affidavit has been filed. Today, the counsel appearing for the State as well as for the effected parties prayed for an adjournment. We are not inclined to grant any adjournment in the matter. The prayer for adjournment stands rejected.

Heard Mr. Mohta for the appellant and the learned counsel for the both sets of respondents.

The impugned order of the transfer of the appellant is under challenge on the averment that the said order has been made only to accommodate a promotee who has also joined Kodungalloor, and is wholly unjust as the appellant has a few months to retire. In the absence of any counter affidavit, the assertions made in the application not being denied, the order of transfer cannot be sustained. The High Court failed to exercise jurisdiction in not interfering with the order. We therefore set aside the impugned order of the High Court as well as the order of transfer of the appellant. High Court

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also was in error in passing the order under challenge in a Contempt Proceeding.

The appeal is disposed of accordingly.

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.....J.
(G.B.Pattanaik)@@
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New Delhi,
October 29, 2001

.....J.
(RUMA PAL)@@
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