



## GOVERNMENT OF KERALA

### Abstract

Health & Family Welfare Department - Health Services - Judgement dated 06.01.2023 in OA-844/2022 filed before the Hon'ble Administrative Tribunal by Dr.Shiny V.S., Junior Consultant in O&G - Complied with - Orders issued.

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### HEALTH & FAMILY WELFARE (A) DEPARTMENT

G.O.(Rt)No.410/2023/H&FWD Dated,Thiruvananthapuram, 21-02-2023

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Read 1 Proceedings No.EA1/89242/2021/DHS dated 13.05.2022 of the Director of Health Services, Thiruvananthapuram (Annexure-A2)

2 Judgement in OA-844/2022 dated 06.01.2023 filed before the Hon'ble Administrative Tribunal by Dr.Shiny V.S., Junior Consultant in O&G.

3 Letter No.EA1-33513/2022/DHS dated 31.01.2023 from the Director of Health Services, Thiruvananthapuram.

### ORDER

The applicant Dr.Shiny V.S., Junior Consultant in O&G filed the OA No. 844/2022 challenging the Annexure A2 order of transfer read as 1st paper above by which she has been transferred from Taluk Hospital, Kayamkulam to Taluk Hospital, Konni, Pathanamthitta and the 3rd respondent was given posting at Taluk Hospital, Kayamkulam. In the judgement read as 2nd paper above in the said OA, the Hon'ble Tribunal directed the 1st respondent to consider the rival claims of the applicant and the 3rd respondent, after affording them an opportunity of hearing and to pass orders on the same, within a period of 6 weeks from the date of receipt of a copy of the order and till then the applicant and the 3rd respondent are allowed to continue at Taluk Hospital,

Kayamkulam.

2) As a part of compliance of the said court order, applicant (Dr.Shiny V.S.) and the 3rd respondent (Dr.Jisha Jayaprakash) were heard by the undersigned on 4/2/2023 in the presence of the concerned Officers from Director of Health Services.

3) During the hearing and in her representation dated 4/2/2023, applicant pointed out that out of the total service of 15 years and 3 months service, applicant has six years of out station service. Whereas the 3rd respondent has only 70 days of out station service out of her 13 years and 7 months service. She has not applied for general transfer since the prescribed period three years has not been completed in Taluk Hospital, Kayamkulam since his last joining in the said station. In the draft transfer list, 3rd respondent Dr.Jisha Jayaprakash was included and proposed to be transferred to Taluk Hospital, Konni in Pathanamthitta. Applicant was not included in the draft list. But in the final transfer order, applicant was transferred to Taluk Hospital, Konni and Dr.Jisha Jayaprakash is posted to Taluk Hospital, Kayamkulam.

4) Third respondent, Dr.Jisha Jayaprakash stated that as she had completed 3 years service in Taluk Hospital, Harippad, she had applied for general transfer 2021 opting that transfer is not required and if transfer is required in administrative ground, then she may be posted at Taluk Hospital, Kayamkulam. But as per the provisional list she was posted at Taluk Hospital, Konni and on appeal, she was posted at Taluk Hospital, Kayamkulam. She further added that Dr.Shiny has been working in Taluk Hospital, Kayamkulam from 26/6/2015 except for an artificial break of 23 days which she deliberately created. Since she had not applied for general transfer, her name was not included in the draft transfer list and for that she cannot blame the authorities.

5) In the report of the Director of Health Services read as 3rd

paper above, it is stated that in the draft list, 3rd respondent was proposed to be transferred to Taluk Hospital, Konni and after considering her appeal, she was transferred to Taluk Hospital, Kayamkulam by transferring the applicant to Taluk Hospital, Konni. It is further stated that there exists a vacancy of junior Consultant (Gynaecology) in Taluk Hospital, Konni.

6) On examining the service details of the applicant and the 3rd respondent, it is seen that the applicant has been working in Taluk Hospital, Kayamkulam from 26/6/2015 barring a break of 25 days and the 3rd respondent had been working continuously from 18/5/2011 to 6/9/2017 in stations such as Taluk Head Quarters Hospital, Haripad, District Hospital, Chengannur and District Hospital, Mavelikkara, all are within 15 kms distance and then continuously in Taluk Head Quarters Hospital, Haripad till her transfer to Taluk Hospital, Kayamkulam, which is also within 15 kms distance. As per para 5 (iv) of GO(P) 3/2017/P&ARD, stations within 15 kms distance are to be treated as a single station for the purpose of general transfer.

7) From the details, it is evident that the applicant has no right to seek a retention in Taluk Hospital, Kayamkulam and the 3rd respondent has no right to get a transfer to Taluk Hospital, Kayamkulam as per transfer norms. It is also evident that the 3rd respondent has no comparative advantage over the applicant to get a transfer to Taluk Hospital, Kayamkulam by transferring the applicant to Taluk Hospital, Konni as per Annexure A2 order.

8) Government examined the matter in detail and is hereby ordered to retain the applicant Dr.Shiny V.S. in Taluk Hospital, Kayamkulam and transferring the 3rd respondent, Dr Jisha Jayaprakash to the existing vacancy of Junior Consultant (Gynaecology) in Taluk Hospital, Konni. The order dated 6/1/2023 of OA No. 844/2022 is thus

complied with. Director of Health Services is directed to ensure prompt relief of third respondent(Dr.Jisha Jayaprakash) from Taluk Hospital, Kayamkulam and to report compliance to government at the earliest.

(By order of the Governor)  
MANU S  
UNDER SECRETARY

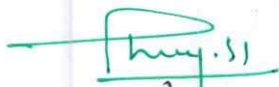
- To:
- The Advocate General, Thiruvananthapuram (with C/L).
- The Director of Health Services, Thiruvananthapuram.
- The District Medical Officer (H), Pathanamthitta / Alappuzha.
- Dr.Shiny V.S., Junior Consultant in O&G, Ullamadam, Chettikulangara P.O., Mavelikkara, Alappuzha - 690 106.
- Dr.Jisha Jayaprakash, Junior Consultant in O&G, Taluk Head Quarters Hospital, Harippad, Alappuzha - 690 514.
- The Principal Accountant General (Audit / A&E), Kerala, Thiruvananthapuram.
- Stock File.

Forwarded /By order

Signed by  
R Renuka  
Section Officer  
Date: 22-02-2023 10:20:04

മേലെഴുത്തു നം. ഇ. 410 - 33513 / 2022 / ആ.വ.സ, തീയതി 25.02.2023  
സർക്കാർ ഉത്തരവിന്റെ പകർപ്പ് അറിവില്ലായ്മയും അടിയന്തിര നടപടികൾക്കുമായി നൽകുന്നു.

To  
ജിഷാ ജയപ്രകാശ് രാമേശ്വർ  
ആലപ്പുഴ / പത്തനംതിട്ട.

  
ആലപ്പുഴയിൽ ഡയറക്ടർക്കുമേൽ