



GOVERNMENT OF KERALA

Abstract

Health & Family Welfare Department - Health Services - Establishment - Judgment dated 22.11.2022 in OA No.1850/2022 filed before the Hon'ble Tribunal by Dr.Jayasree B.P. , Consultant in Gynaecology - Complied - Orders issued.

HEALTH & FAMILY WELFARE (A) DEPARTMENT

G.O.(Rt)No.437/2023/H&FWD Dated,Thruvananthapuram, 24-02-2023

Read 1 GO(Rt) No. 2553/2022/H&FWD dated 22/10/2022.

2 Representation submitted by Dr.Jayasree.B.P, Consultant in O&G dated 27.10.2022 Annexure-A

3 Judgment dated 22.11.2022 in OA No.1850/2022 filed before the Hon'ble Tribunal by Dr.Jayasree B.P, Consultant (O&G).

4 Letter No.EA1-2129/2023/DHS dated 14.02.2023 from the Director of Health Services, Thiruvananthapuram.

ORDER

Dr Jayasree B.P. filed OA No 1850/2022, aggrieved by the Government Order read as 1st paper above, transferring the applicant to the Taluk Headquarters Hospital, Parassala which is 30 kms away from her residence. As per the order dated 22/11/2022, the Hon'ble Tribunal disposed of the OA directing the 1st respondent to consider and pass appropriate orders on Annexure-A4 representation read as 2nd paper above, in accordance with law, as expeditiously as possible at any rate, within a period of two months from the date of receipt of a copy of the order. It is also directed that while passing orders on Annexure-A4 representation, the 1st respondent shall take into consideration the general transfer guidelines contained in G.O(P) No.3/2017/P&ARD

dated 25.02.2017 and the preference and priority available to the applicant and also afford an opportunity of hearing to the affected parties.

2) Accordingly the applicant and the respondents were heard on 7/1/2023 . In Annexure A4 representation and during the hearing, the applicant stated that while she was working as Consultant in Gynaecology at Women and Children Hospital, Thycaud, Thiruvananthapuram, she was transferred and posted at Government Victoria Hospital, Kollam. On completion of more than 3 years and 6 months at Government Victoria Hospital, Kollam, she made a request to Director of Health Services to a convenient posting at Women and Children Hospital, Thycaud due to the vacancy which arose on retirement of one Dr. Geetha G. Nair on 30/6/2022. Though, she was entitled to get transfer to her opted places as per transfer norms since she has less than two years to retire, she was transferred to Taluk Head Quarters Hospital at Parassala which is not her opted place and 30 kms away from her residence. The incumbents Dr. Asha V. and Dr. Bindu R. are much juniors to her and as far as Dr. Asha V. is concerned even though she was transferred out to District Hospital Kozhencherry, Pathanamthitta through working arrangement she was continuing in District Model Hospital Peroorkada. As far as Dr. Bindu R. is concerned, from 2018 onwards she is continuing within Thiruvananthapuram at Women and Children Hospital, Thycaud, Thiruvananthapuram which is illegal and arbitrary. She further added that since she is on the verge of retirement, she has no chance to apply for the upcoming general transfer as she would not have completed 3 years in the present station and hence she requested to post her to W&C Hospital, Thycaud considering her seniority in Consultant cadre, out station service of 16 years including last outstation service of more

than 3 years and 7 months and she is due to retire within 1 year and 6 months.

3) In her representation and during the hearing, the 3rd respondent Dr. Bindu R. pointed out that she was transferred to W&C Hospital, Thycaud from Taluk Head Quarters Hospital, Chirayinkeezhu in 2018 through General Transfer and she was transferred to Taluk Head Quarters Hospital, Parassala through General Transfer as per GO(Rt) No. 1095/2022/H&FWD dated 17/5/2022. She further added that she has special training and fellowship in advanced laparoscopy and considering his experience in infertility clinic, she was posted to W&C Hospital, Thycaud for strengthening infertility wing.

4) In her representation and during the hearing, 4th respondent Dr. Asha V. pointed out that she was promoted and posted to District Hospital, Kozhenchery, Pathanamthitta as per G.O. (Rt) No. 2336/2018/H&FWD dated 21/7/2018 and joined there on 29/8/2018. Since her mother was totally bedridden and her father expired long time back and due to the untimely demise of her lonely sister, she requested for a working arrangement and was posted to District Model Hospital, Peroorkada on working arrangement on 24/1/2019 and rejoined in District Hospital, Kozhencherry on 25/1/2022 and worked there till her transfer to W&C Hospital, Thycaud as per Government Order read as 1st paper above. Further, she pointed out that she had applied for General Transfer 2021 and was not considered for the same and was also denied two open vacancies in her home district during her tenure at District Hospital, Kozhencherry though she had protection on the basis of his caste status (SC) and divorcee status. Subsequently, she filed an OA 999/2022 before Hon'ble Tribunal for considering her posting to the retirement vacancy of Dr.Geetha G.Nair and as per the order dated 8/6/2022 in the said OA, she was heard by the 1st

respondent, the Director of Health Services and in this back ground she was posted to W&C Hospital, Thycaud as per the Government Order read as 1st paper above.

5) The transfer order issued as per the Government Order read as 1st paper above is not in the nature of general transfer, but ordered in administrative convenience to the vacancies arose after the issue of general transfer order. Dr Bindu R. is posted on administrative ground for strengthening infertility clinic in W&C Hospital, Thycaud considering her specialisation in the field. Dr Asha V. is posted to the said hospital considering her compassionate grounds as stated above and also in the background of the order of the Hon'ble Administrative Tribunal dated 8/6/2022 in OA 999/2022, which was filed by her challenging her exclusion from general transfer.

6) Based on the above facts, it is evident that there is no infirmity in the transfers of Dr. Bindu R. and Dr. Asha V as per Government Order read as 1st paper above. Though Dr. Jayasree B.P. was transferred from Government Victoria Hospital, Kollam to Taluk Hospital, Parassala, Thiruvananthapuram as per the said order, the place was not opted by her. Therefore, it would be unjustifiable to deny her the opportunity of applying for the coming general transfer citing the technicality of non-completion of three years in the present station.

8) In these circumstances, Annexure A4 representation read as 2nd paper above submitted by the applicant is rejected and the order dated 22/11/2022 in OA-1850/2022 is thus complied with. Since her transfer to the present station was not on her request, it is also ordered that Dr Jayasree B.P. will be entitled to apply for a transfer in the coming general transfer by considering her period of service in Government Victoria Hospital as per para 5(viii) of GO(P)No 3/2017/P&ARD dated 25/2/2017.

(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), Thiruvananthapuram.

Dr.Jayasree.B.P., Consultant (O&G), Ramamangalam, TC-17/1049(3),
Mele Cherukara Road, Poojappura, Thiruvananthapuram - 695 012.

Dr.Asha.V, Consultant(O&G), W&C Hospital,
Thycaud,Thiruvananthapuram - 695 014.

Dr.Bindu.R., Consultant (O&G), W&C Hospital, Thycaud,
Thiruvananthapuram - 695 014.

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

Stock File.

Forwarded /By order

Section Officer

മേലേഴ്ചക്ക് നം. ഇ.എ- 2129/2023/ആ.വ.ഡ, തീയതി 28.02.2023

സർക്കാർ ഉത്തരവിന്റെ ചുരുക്കി അറിയിപ്പിലേക്കും മേൽനടപടി
കൈമാറ്റത്തിന് വെബ്സൈറ്റിൽ പ്രസിദ്ധീകരിക്കുന്നു .

ആരോഗ്യവകുപ്പ് ഡയറക്ടർമാരുടെ
വേണ്ടി.