



IN THE KERALA ADMINISTRATIVE TRIBUNAL AT  
THIRUVANANTHAPURAM

Present:

The Hon'ble Mr. Justice T.R. Ramachandran Nair, Chairman  
&  
The Hon'ble Mr. K. Jose Cyriac, Member

Dated this the 30th of November 2015

OA-1883/2015

**Applicant(s):**

- 1) Shahila Beevi., W/o S.M Habeeb, aged 39 years, Staff Nurse Gr. II, District Hospital, Kollam, , PIN. 691001, Residing at Thyba, Mamoodu, Chandanathoppe, ,Kollam,Kerala- 691014  
mobile-9497768119
- 2) Deepa D., W/o Jayan P.K, ,,Staff Nurse Gr. II, District Hospital, Kollam, Kollam. PIN. 691001, Residing at Soubhagya, Kootikkada PO, Thattamala, ,Kollam,Kerala - 691020

By Advs. SREEDEVI K & ACHUTH KYLAS

**Respondent(s):**

- 1) State of Kerala, represented by the Secretary to Government, Health and Family Welfare Department, Secretariat, Thiruvananthapuram, Kerala - 695001
  - 2) Director of Health Services, Directorate of Health Services, Thiruvananthapuram, Kerala - 695011
  - 3) The District Medical Officer, Office of the the District Medical Officer, Kollam, Kerala - 691001
  - 4) Mini Lukose,, Staff Nurse Gr. I, District Hospital, Kollam, Kerala - 691001
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- 5) Suma S, Staff Nurse Gr. I, District Hospital, Kollam, Kerala - 691001
- 6) Sindhu T.K, Staff Nurse Gr. I, District Hospital, Kollam, Kerala - 691001
- 7) Aisha Been J, Staff Nurse Gr. I, District Hospital, Kollam, Kerala - 691001
- 8) Sajeena Beegum, Staff Nurse Gr. I, District Hospital, Kollam, Kollam, Kerala - 691001
- 9) Brinda A.S, Staff Nurse Gr. I, District Hospital, Kollam, Kollam, Kerala - 691001
- 10) Sreeja Kumari, Staff Nurse Gr. I, District Hospital, Kollam, Kollam, Kerala - 691001
- 11) Valsala, Staff Nurse Gr. I, District Hospital, Kollam, Kollam, Kerala - 691001
- 12) Sindhu S, Staff Nurse Gr. I, District Hospital, Kollam, Kollam, Kerala - 691001
- 13) Hena, Staff Nurse Gr. I, District Hospital, Kollam, Kollam, Kerala - 691001
- 14) Jasmine S, Staff Nurse Gr. I, District Hospital, Kollam, Kollam, Kerala - 691001
- 15) Lubina, Staff Nurse Gr. I, Govt. Hospital, Mayyanadu, Kollam, Kerala - 691303

By Learned Government Pleader Sri.R.Ajay Ghosh for R1 to R3 and  
Adv.S.D.Asokan for R4 to R15

This Original Application having been finally heard on 30th of  
November 2015, the Tribunal on the same day passed the following:

**T.R.Ramachandran Nair, Chairman &  
K.Jose Cyriac, Member**

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O.A.No.1883 of 2015  
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**Dated this the 30<sup>th</sup> day of November, 2015**

**ORDER**

T.R.Ramachandran Nair, Chairman:


The applicants herein are working as Staff Nurse Grade II and they claim that they are among the senior most persons to be promoted as Staff Nurse Grade I. From the seniority list of Staff Nurse Grade II, promotion as Grade I was given upto rank No.2300. They claim that going by the rank list they are rank Nos.2358 and 2305 respectively. They are entitled to ratio promotion as Staff Nurse Grade I based on their seniority. Both the applicants were recruited by the Public Service Commission through district recruitment board and the first applicant was posted in Kollam district and the second applicant in Thiruvananthapuram district. Later, the second applicant joined the District Hospital, Kollam losing three years seniority as Staff Nurse Grade II in Thiruvananthapuram.

2. The main argument advanced by the learned counsel for the applicants in this Original Application is that for effecting inter district transfers the Government have issued GO (MS) 4/61/PD dated



2.1.1961 and Rule 27 of Part II of the Kerala State and Subordinate Services Rules has also been amended inserting a proviso to clause (a) by G.O.(P) 11/76/PD dated 13.1.1976. It is contended that respondents 4 to 15 have been given own request transfer from the district recruitment board and have been appointed to Kollam district without loss of seniority on promotion as Grade I and it is prejudicial to the legitimate interest of the applicants and other district recruitment board appointees in Kollam district. The further contention is that the seniority of respondents 4 to 15 has to be reckoned only from the date of joining duty in the new unit (Kollam district) and they are not entitled to count their service prior to the date of transfer on request. The said arguments have been further expanded in the grounds of the Original Application. Thy apprehension raised evidently is that once the applicants get promotion, there may not be vacancies in Kollam for posting them.

3. Mainly, therefore, they are seeking a direction to respondents 1 and 2 to implement the own request for inter district transfer taking into account the proviso to Rule 27(a) of the KS & SSR for Grade I Staff Nurses on seniority loss. They have relied upon Annexures A6 and A7 orders and have filed representations and advance copies of those representations have been marked as Annexures A8 and A9. The



learned counsel for the applicants requested that those representations may be directed to be disposed of by the Government.

4. The said prayers have been strongly opposed by the learned counsel for the party respondents and the learned Government Pleader.

5. We heard learned counsel on both sides. The reply statement filed by the 4<sup>th</sup> respondent shows that the 4<sup>th</sup> respondent entered service in January 2004 and was appointed in Thiruvananthapuram district. She was promoted as Staff Nurse Grade I as per order dated 21.8.2013. The 5<sup>th</sup> respondent also was appointed in Thiruvananthapuram district in October, 2003 as Staff Nurse Grade II and she was promoted as Staff Nurse Grade I by order 21.8.2013. The particulars in respect of other party respondents have also been averred in paragraph 1 of the reply statement. The home district of all the party respondents is Kollam. Staff Nurse Grade I is a State cadre post. The party respondents rely upon the guidelines for general transfer issued by the Government as per Annexure R4(B) to contend for the position that service in all the cadres have to be considered as a whole for transfer to own district or opted district. It is contended that they are entitled to count their total service as Staff Nurse Grade I and Grade II together for the purpose of transfer to Kollam district. In that context they have relied upon



Annexure R4(C) Circular also wherein certain guidelines have been prescribed. Annexure R4(E) is the judgment in OP (KAT) No.396 of 2014, wherein the view taken by this Tribunal in O.A.No.480 of 2014 that the post of Staff Nurse Grade I is a State cadre post has been upheld.


6. The substantial contention, therefore, is that Annexures A1 and A2 Government Orders are not applicable in the case of the present transfer as unit of appointment of Staff Nurse Grade I is State. The learned counsel for the applicants submitted that since transfers are made on request, it will squarely cover the mischief of Rule 27 of Part II of the KS & SSR and GO (MS) 4/61/PD dated 2.1.1961. The learned Government Pleader strongly opposed the request to consider the representations Annexures A8 and A9. It is further contended that the legal position that Staff Nurse Grade I will be in the State cadre has been settled by this Tribunal which has been affirmed by the Hon'ble High Court in various decisions. It is submitted that on promotion a Grade I appointee is entitled to be transferred to another district in tune with the guidelines for transfers.

7. We notice from the pleadings in the matter that what is contended by the applicants is the applicability of the proviso to Rule



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27(a) of Part II of the KS & SSR and the individual orders of transfer of the party respondents are not challenged in this Original Application. Apart from the same, it can be seen that the applicants cannot maintain a challenge against the transfer of the party respondents (promoted as Grade I) since they have not so far been promoted to Grade I. Therefore, merely on the apprehension that when they are granted ratio promotion, there is a chance of them being posted outside Kollam district for want of vacancies may not be a reason for us to issue directions in this Original Application at this stage. Evidently, the principles contained in the proviso to Rule 27(a) of Part II of the KS & SSR cannot have any application to the transfer obtained by the party respondents based on the general transfer norms issued by the Government enabling the Government to transfer an employee on the basis of the various conditions prescribed therein. Their transfer is not an inter district transfer, as they are in the State cadre. The scope of GO (MS) 4/61/PD dated 2.1.1961 and the latter Government orders concerning inter district transfer, prescribe the loss of seniority consequent on inter district transfer in respect of a district recruitee. That has nothing to do with the dispute raised herein. The applicants have not gained promotion as Staff Nurse Grade I so far. In that view of



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the matter, even though it is vehemently contended that the representations may be directed to be considered, we are of the view that it is too premature for us to issue such a direction. The learned counsel for the applicants then brought to our notice the order passed by this Tribunal in O.A.No.1002 of 2015. We have gone through the said order. Paragraph 1 of the said order will show that the applicants therein have been promoted as Staff Nurse Grade I and posted to Kannur district and feeling aggrieved by the said transfer, they filed appeals before the Government and those appeals were directed to be considered by this Tribunal. The same has no applicability to the pleas raised in this Original Application.

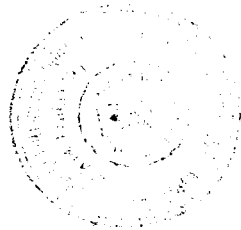
For all the above reasons we find no reason to issue a direction as sought for and accordingly the Original Application is dismissed.

sdl -

T.R. Ramachandran Nair, Chairman

sdl -

K. Jose Cyriac, Member



Free copy sent by post on 11/12/15  
not delivered on 11/12/15

*[Signature]*  
Member



APPENDIXOA-1883/2015APPLICANT'S ANNEXURES:

- Annexure A1- True copy of G.O.(MS) No.4 dated 2.1.1961.
- Annexure A2- True copy of G.O.(MS) 154/71/PD dated 27.5.1971.
- Annexure A3- True copy of G.O.(P) 1/91/P & ARD dated 7.1.1991.
- Annexure A4- True copy of G.O.(P) No.36/91/P & ARD dated 2.12.1991.
- Annexure A5- True copy of G.O.(P) 37/96/P & ARD dated 7.11.1996.
- Annexure A6- True copy of G.O.No.2619/2014/H & FWD dated 2.8.2014.
- Annexure A7- True copy of the Government letter No.44585/C2/2014/H & FWD dated 30.9.2014 clarifying that inter-district transfer need not be made on Grade, I ratio promotion.
- Annexure A8- True copy of the representation dated 8.10.2015 submitted by 1st applicant before 1st respondent.
- Annexure A9- True copy of the advance copy of the representation dated 13.10.2015 submitted by 2nd applicant before 1st respondent.
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RESPONDENT'S ANNEXURES:

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Annexure R4(A)- True copy of the G.O.(Rt) No.3844/2010/H & FWD dated 27.9.2010.

Annexure R4(B)- True copy of the G.O.(P) No.12/04/P & ARD dated 10.09.2004.

Annexure R4(C)- True copy of the Government Circular No.29413/C2/73/HD dated 22.4.1974.

Annexure R4(D)- True copy of the circular No.EE1/2500/2014/DHS dated 22.1.2014 issued by the 2nd respondent.

Annexure R4(E)- True copy of the Judgment dated 1.12.2014 passed by the Honourable High Court in O.P.(KAT) No.396/2014.

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