

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.N.RAVINDRAN

MONDAY, THE 31ST AUGUST 2009 / 9TH BHADRA 1931

WP(C).No. 25285 of 2009(E)

PETITIONER(S):

**DR.TIGY THOMAS JACOB,
ASSISTANT PROFESSOR OF ORTHOPAEDICS,
MEDICAL COLLEGE, KOTTAYAM.**

**BY ADV. SRI.SANTHOSH MATHEW
SRI.SATHISH NINAN
SRI.JENNIS STEPHEN**

RESPONDENT(S):

- 1. STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT, HEALTH AND FAMILY
WELFARE DEPARTMENT, THIRUVANANTHAPURAM.**
- 2. THE DIRECTOR OF MEDICAL EDUCATION,
THIRUVANANTHAPURAM.**
- 3. THE PRINCIPAL,
MEDICAL COLLEGE, KOTTAYAM.**
- 4. DR.ARUN K.,
ASST.PROFESSOR, MEDICAL COLLEGE,
THIRUVANANTHAPURAM.**

MR.ANTONY MUKKATH, GOVERNMENT PLEADER

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31/08/2009, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

P.N.RAVINDRAN, J.

W.P.(C.) No.25285 of 2009

Dated, this the 31st day of August, 2009

J U D G M E N T

Heard Shri.Santhosh Mathew, the learned counsel appearing for the petitioner and Shri.Antony Mukkath, the learned Government Pleader appearing for respondents 1 to 3. In the nature of the order that I propose to pass, I do not deem it necessary to issue notice to or hear the fourth respondent.

2. The petitioner is presently working as Assistant Professor of Orthopaedics in Medical College, Kottayam. He was promoted to the category of Assistant Professor on 27/12/2006. Prior to that he and his family members met with a motor accident. His wife succumbed to the injuries sustained by her, and his son, who is presently studying in fourth standard, sustained very serious internal injuries including multiple fracture of the ribs. The petitioner states that his son is still undergoing treatment.

3. While matters stood thus, by Ext.P1 order dated 27/08/2009 issued by the Government of Kerala, the petitioner was

transferred from Medical College, Kottayam and posted at Medical College, Thrissur. Dr.Tomsee Anil Johnson S, Assistant Professor, Medical College, Thrissur was transferred and posted at Medical College, Thiruvananthapuram. The fourth respondent was transferred from Medical College, Thiruvananthapuram and posted at Medical College, Kottayam. As a result, the petitioner was transferred and posted at Medical College, Thrissur. The order of transfer, according to the petitioner, has not taken effect till today.

4. The petitioner submits that he has filed Ext.P2 representation before the Secretary to Government, Health and Family Welfare Department, pointing out the facts set out above, and also stating that the fourth respondent, who is under orders of transfer to Kottayam is prepared to work at Thrissur, and that, if the fourth respondent is accommodated at Thrissur, where a vacancy has arisen on account of the transfer of Dr.Tomsee Anil Johnson S, the petitioner, who has not completed three years at Kottayam, can be retained at Kottayam. In this writ petition, the petitioner challenges his transfer from Medical College, Kottayam to Medical College, Thrissur.

5. Shorn of details, the petitioner's grievance is that without taking note of the medical condition of his son, and the willingness of the fourth respondent to be posted at Thrissur, the Government have mechanically shifted him from Kottayam to Thrissur. In my opinion, this is a matter, which the Government should take note of, especially having regard to the fact that the petitioner's son, who is studying in the fourth standard, is still undergoing treatment for the very serious injuries sustained by him in the motor accident.

6. The pleadings disclose that the petitioner has filed Ext.P2 representation before the Government. In the facts and circumstances set out above, and having regard to the fact that the petitioner has not completed three years of service at Medical College, Kottayam in the category of Assistant Professor, I am of the opinion that the Government should sympathetically consider the request made by him in Ext.P2 representation and take a decision thereon. It is stated that though Ext.P1 order of transfer was passed on 27/08/2009, the petitioner has not been relieved till date and that the fourth respondent has not taken charge at Medical College, Kottayam. In such circumstances, I dispose of this writ petition with

a direction to the Government to sympathetically consider Ext.P2 representation and take a decision thereon after affording the petitioner and the fourth respondent, a reasonable opportunity of being heard. A decision on Ext.P2 shall be taken within one month from today. Till then, the petitioner and the fourth respondent shall be retained in their respective stations. The petitioner shall, in order to enable the Government to act as directed above, produce a certified copy of this judgment before the Secretary to Government, Health and Family Welfare Department within one week.

The Registry is directed to issue certified copies of this judgment to the learned counsel for the petitioner and the learned Government Pleader on usual terms if applied for, today itself.

(P.N.RAVINDRAN, JUDGE)