

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. NO.2278/2002

This the 20th day of January, 2003

HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

1. Smt. Sudesh Passi Khandelwal
W/o Sh. N.C. Khandelwal
R/o 99 Vinoda Puri Lajpat Nagar,
New Delhi.
2. Smt. Rukmini Gautam
W/o Sh. A.K. Gautam,
E-401 Curzon Road Aptts.
Kasturba Gandhi Marg,
New Delhi-1.

Both working as Teachers in
Sarvodaya Kanya Vidyalaya
Pandara road,
New Delhi-3.

...Applicants

(By Advocate : Shri Ravi Kant for Shri Arun Bhardwaj)

Versus

1. GNCT through Chief Secretary
Players Building, ITO, New Delhi.
2. Director of Education
Directorate of Education
Old. Sectt., Delhi.
3. Principal
Sarvodaya Kanya Vidyalaya
Pandara road, New Delhi-3.
4. Dr. Sudha Arora
Vice Principal
Sarvodaya Kanya Vidyalaya
Pandara road, New Delhi-3.Respondents

(By Advocate : Shri Mohit Madan for Mrs. Avnish
Ahlawat)

O R D E R

Both the applicants in the OA are aggrieved by
their transfer out of their present school, ordered on
28.8.2002.

2. S/Shri Ravi Kant for Arun Bhardwaj and Mohit Madan
for Mrs. Avnish Ahlawat, learned counsel represented
the applicant and the respondents.

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3. MA 188/2002 for joining allowed.

4. Applicants, working as Music Teacher and T.G.T. English respectively in Sarvodaya Kanya Vidyalaya, Pandara road, New Delhi, have been performing well and to the satisfaction of all concerned. They were also accordingly teaching the students for school competitions. Trouble started in the school with the arrival of respondent no.4 as Vice Principal. She began a period of harassment. She had got about ten teachers who did not agree with her in the first year. Her ire next turned to the applicants as they did not succumb to her pressures. The school also suffered in cleanliness, orderliness because no attempt was made to clean the place by those in authoring. Complaints had been made by the teachers, but no action thereafter has been taken to alleviate their grievances. On 22.8.2002, the applicants were illegally transferred out at the behest of the respondent no.4, for no reason whatsoever. The order has been issued with total malafide intentions and approach to the Tribunal were the only remedy available with them. Hence the OA.

5. Grounds raised in the OA are that

- i) the same was arbitrary and illegal;
- ii) policy adopted is one of pick and choose;
- iii) the transfer was not aligned with the general policy.

iv) the applicants fundamental right to maintain a normal life is disturbed;

v) the transfer was only engineered by respondent no.4 and has been ordered without granting them any opportunity to explain their case.

6. The above pleas were forcefully reiterated by Shri Ravi Kant, learned proxy counsel for the applicant, who prayed that the transfer order dated 22.8.2002, which has been stayed, be cancelled and justice done to them. Shri Ravi Kant also states that even after they obtained stay order from the Tribunal, they were not permitted to rejoin duties is disobedience of Tribunal orders.

7. In the counter affidavit filed on behalf of the respondents by Smt. Avnish Ahlawat, the charges raised by the applicants are wholly contested. It is pointed out that both the applicants are working in the same school for the last seventeen years. Following acts of indiscipline brewing in the school, making administration difficult decision was taken to transfer the two applicants and it was accordingly done by the impugned orders. In the interests of justice, they were also directed to be relieved on 28.8.2002. Still they attended school thereafter which led to some altercation on 31.8.2002. All the allegations by them against the Vice Principal were motivated. The applicants have been shifted on exigencies of service within Delhi itself and that too

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not for far from the homes. Even otherwise after serving more than 17 years in the same school, they cannot make any grievance of their transfer. The school authorities are taking steps to fill up all the vacancies in the school, keeping in mind the requirements of the school and the anxiety of the applicants was rather exaggerated. Respondents also allege that the applicants after the stay order had attempted to create chaos and indiscipline in the school. According to Shri Mohit Madan, who appeared for the respondents, the applicants have been acting in a manner unbecoming of responsible teachers, as if they had a vested right to continue in the same school as long as they choose to do so. Shri Madan also placed before me the relevant file in which the transfer matter was dealt with.

8. I have carefully deliberated upon the matter. The applicants in this OA are challenging the orders transferring them from Sarvodaya Kanya Vidyalaya to other schools in Delhi, as malafide and arbitrary, which is contested by the respondents as having been ordered in the exigencies of service. It is settled position in law that transfers fall within the exclusive domain of the Executive, the Courts and the Tribunals should tread carefully while dealing with transfer matters and that unless the transfers are against the accepted and notified guidelines, they should not be interfered with (Union of India & Others Vs. S.L. Abbas [(1993) 4 SCC 357 & Gujarat Electricity Board, Thermal Power Station, UKAI Gujarat

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vs. Hind Mazdoor Sabha & Others. In this OA, two individuals, who were working for more than sixteen years in the Sarvodaya Kanya Vidyalaya, Pandara Park, have been transferred to two other schools, also within Delhi, on administrative exigency. This order has been ordered, as the relevant file shows, at the level of the Head of the Department. I do not see any justification to interfere in this. Allegations of malafide raised by the applicants are not based on any fact and as such do not deserve any consideration. The applicant seems to be labouring under the impression that this is a non-transferable job and they can afford to remain wherever they chose to do and forever. There cannot be a more pernicious argument and the same can be upheld only at the cost of efficiency and sound administration. It would also appear that the applicants have misused the stay order granted to them to add to indiscipline and chaos in the school. The same cannot be permitted.

9. Applicants have brought out no case whatsoever for my interference. OA fails and is accordingly dismissed. Needless to say, the interim order granted on 29.8.2002 is automatically vacated. No costs.

(GOVINDAN S. TAMPI)
MEMBER (A)

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