

Central Administrative Tribunal
Principal Bench

O.A. No. 1802 of 2002

New Delhi, this the 8th day of August, 2002

HON'BLE MR. GOVINDAN S.TAMPI MEMBER (A)

Smt.Prem Kochhar (UDC Kendriya Vidhalaya)
W/o Shri S.K.Kochhar,
R/o B-43, New Krishna,
Najafgarh Road,
New Delhi.Applicant
(By Advocate: Shri R.P.Luthra along with
Shri Deepak Arora)

Versus

1. The Commissioner,
Kendriya Vidhalaya Sanganthan,
18, Institutional Area,
Saheedjeet Singh Marg,
New Delhi.
2. The Asstt.Commissioner,
Kendriya Vidhalaya Sanganthan,
18, Institutional Area,
Saheedjeet Singh Marg,
New Delhi.
3. Concerned Education Officer,
Kendriya Vidhalaya Sanganthan,
18, Institutional Area,
Saheedjeet Singh Marg,
New Delhi.
4. Shri R.K.Middha,
Principal,
Kendriya Vidhalaya,
C-2, Area Janakpuri,
New Delhi 110058.
New Delhi.Respondents.
(By Advocate: Shri S.Rajappa)

ORDER(ORAL)

This OA challenges order dated 22.5.2002 passed by respondents transferring the applicant from Kendriya Vidyalaya(KV) Janakpuri to K.V. Ordnance Factory, Chanda.

2. Heard S/Shri R.P.Luthra along with Deepak Arora and S.Rajappa, learned counsel for the applicant and the respondents respectively.

(S)

3. The applicant (Smt. Prem Kochchar), who joined K.V.S. as LDC became UDC in 1991 and was posted to Delhi Cantt. Though she was promoted in 1999 as a Head Clerk, ^{at K.V. Nakshatra} she could not take it on account of her husband, being ^{an} visually handicapped person serving as SBI Janakpuri. This promotion order was subsequently withdrawn by the Sangathan. However, by the impugned order dated 22.5.2002, issued while redeploying the ministerial staff, the applicant stood transferred to K.V., Ordnance Factory, Chanda. The representation against her transfer, basing primarily ^{on} her difficulty on account of her husband's disability has not been responded to. Hence this OA.

3. Reiterating the written pleadings on behalf of the applicant, Shri R.P.Luthra, learned counsel pointed out that he was seeking the intervention of the Tribunal, on extreme humanitarian grounds, which the respondents had not appreciated. On an earlier occasion, the applicant had declined promotion as Head Clerk, ^{at Nakshatra} as she could not leave her 100% visually handicapped husband at Delhi. Inspite of the same, the respondents have transferred her all the way to Chanda in Maharashtra in the same capacity. This was harsh and deserved to be interfered with.

4. Emphasising the points raised in reply by the respondents, Shri S.Rajappa, learned counsel strongly urged that the OA cannot be allowed. Transfer is an incidence of service and all those working in the KVS are fully aware that they are liable to be transferred

anywhere in the country. The validity of the transfer guide-lines issued by the respondents has been upheld by the Tribunal time and again. The instant transfer order has only been issued in terms of the guide-lines and therefore the applicant cannot question the same. It may be true that the applicant's husband, because of his visual impairment, cannot move out of Delhi. But the Government's instructions do not provide that the spouses should be kept in the same station for all time to come, and even against administrative exigency. In this case, the individual had to be transferred out only on account of the post being rendered surplus and her being the person with the longest stay in the area. Respondents' action could not therefore be faulted. ⁶⁴ The having been filed on incorrect premises has to fail, pleads Shri Rajappa.

4. I have carefully considered the matter. The transfer of the applicant, having been effected in pursuance of the guide-lines and on account of her being surplus in the area, it would be difficult to find fault with the same. The fact, however, remains that she has a genuine problem, on account of her husband being a visually handicapped individual and as she had earlier even declined a promotion to the higher grade as she could not leave Delhi. That being the case, extreme compassion and humanitarian approach was called for in her case. Inspite of administrative difficulties, as projected by the learned counsel for the respondents, I do not think that they are totally helpless in this matter to provide succour to this

applicant. Reconsideration of her case for being posted in a nearby Kendriya Vidyalaya so that her husband is not rendered totally destituted is called for.

6. In the above circumstances, the OA succeeds and is accordingly allowed. The impugned order dated 22.5.2002 is set aside as far as it refers to the applicant (Smt. Prem Kochhar). The respondents shall consider, within one month from the date of receipt of a copy of this order, the case of the applicant for her being posted in a nearby Kendriya Vidyalaya, keeping in mind her personal difficulty, related with her husband's visual impairment and consequent inability to move out of Delhi. No costs.

/kd/

(Govindan S.Tampi)
Member(A)

for M&B Regd