

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A NO. 1212/2001

NEW DELHI THIS THE 2nd DAY OF APRIL 2002

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

Dr. Arvind Kumar,
T.G.T. (Bio)
Kendriya Vidyalaya Sangthan
under transfer from Kendriya Vidyalaya
Nasirabad (Rajasthan)
presently at D/226-B New Ashok Nagar,
New Delhi

.....Applicant

(By Shri B.B. Raval, Advocate)

VERSUS

1. Kendriya Vidyalaya Sangathan
through its Jt. Commissioner (Admn)
18 Institutional Area,
Shahid Jeet Singh Marg,
New Delhi
2. The Dy. Commissioner (Admn)
Kendriya Vidyalaya Sangthan,
18 Institutional Area
Shaheed Jeet Singh Marg,
New Delhi
3. The Principal,
Kendriya Vidyalaya,
Nasirabad (Rajasthan)

(By Sh. S. Rajappa, Advocate)Respondents

ORDER

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

This OA is directed against order No. D-33-13/2001
KVS(Estt.III) dated 30.4.2001, passed by the respondents
transferring the applicant from Kendriya Vidyalaya
Nasirabad to Aizawl (Mizoram).

2. Heard Sh. B B Rawal learned counsel for the
applicant and Sh. S. Rajappa learned counsel for
the respondents, on several days. The applicant had

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also filed a few MAs, seeking directions, calling for records ^{of}. All of them have been disposed of during the hearing.

3. The applicant joined as a Trained Graduate Teacher (TGT) in Biology on 1.1.1996 at Kendriya Vidyalaya Nazirabad (Rajasthan), on a probation for a period of 2 years. He had performed during the probation period and thereafter ⁱⁿ an excellent manner. The applicant holds a Doctorate in Chemistry alongwith Masters Degrees in Hindi, History and Sociology. He had maintained excellent and cordial relations with the first three Principals but since June 2000 after the arrival of the new Principal relations started to sour as he was not prepared to accept her manipulations in administrative matters. The applicant also brought the irregularities to the notice of the Higher authorities which had resulted in the above transfer of the applicant, which was done without the concurrence of the Chairman of the Managing Committee of the concerned Kendriya Vidyalaya. The concerned Dy. Commissioner was also prejudiced against the applicant and he became instrumental alongwith the Principal in the transfer. The applicant had, on his part, applied for the transfer to Agra or any adjoining station on account of his personal problems but the same had not been done. The transfer order has been issued in violation of the guidelines and under the garb of public interest while what has happened was only the protection of the interest of the private individuals who had animus against him for his actions in the interest of administration. The order has also been

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the result of certain conspiracy and without giving him any opportunity to explain his conduct. It was absolutely necessary that this transfer should be interfered with in the interest of justice, pleads the applicant.

4. Stoutly refuting the pleas made in the application, the respondents point out that the transfer of the applicant from KV Nazirabad to KV Aizawal was ordered in public interest on the recommendations made by the Asstt. Commissioner Regional Officer, KVS Jaipur, on 1/3.1.2001. It was found that the applicant was responsible for creating a number of problems in the School and his conduct became unbecoming of a teacher. He was responsible for inciting the students to acts of indiscipline. Still the Sangthan, instead of taking a harsh action, took recourse to the transfer. This was done strictly within the guide lines, which have been circulated from time to time and the validity of which, has been upheld time and again by the Tribunal and Courts of Law. The Asstt. Commissioner had stated that the applicant was throwing all norms of proper behaviour to wind, complaining against all and sundry. All the allegations made by him against the Principal are baseless. Respondents state that the applicant had also asked for posting to Agra or nearabouts but the same was to be considered only in the light of the guide-lines issued as well as the relative merits of the applicant for transfer. Continuation of the applicant in Nazirabad which he had obtained, by

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interim order needs to be set aside and the respondents should be permitted to relieve the applicant immediately, they pray.

5. During the oral submissions both Sh. Raval and Sh. Rajappa reiterated their contentions. While Sh. Raval persisted his arguments that the transfer order had been issued to teach him a lesson for acting properly and in the interest of administration, thereby incurring the wrath of the authorities, Sh. Rajappa points out that the respondents could not have tolerated the recalcitrant and improper behaviour of the applicant any longer. According to him, the respondents still took the lenient alternative of transferring the applicant instead of moving against him in disciplinary proceedings. Shri Raval thereafter pleaded that his applicant had suffered considerably and the Tribunal should intervene and render him justice by cancelling the above order of transfer. He also stated that if the applicant cannot be accommodated in Nazirabad, he may be adjusted in some other Kendriya Vidyalaya not far from Delhi. Sh. Rajappa, after consulting his client indicated that they would give five places of ^{choice} ² postings ^{on} ^{for} transfer of the applicant, which they did. Sh. Raval indicated on the last day of the hearing i.e. 1.3.2002 that among the places of choice given by the respondents, Agra was acceptable to him and the respondents may be directed to issue orders, posting him to Agra. He also prayed that the salary of the applicant which has been held back in between should be released to him. On the other hand Sh. Rajappa pointed out that there was likely

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hood of the post in Agra being rendered surplus in which case the applicant would be posted out. He also contested the request of Sh. Raval for the grant of pay and allowances to the applicant for the period when he was not working.

6. We have carefully considered the matter. While the applicant has challenged the order on the ground that the same was issued in total violation of the transfer guide-lines of the KVS, in respect of the postings/transfers, to wreak vengeance on him for acting in the interest of the administration, the respondents state that they could not have any longer tolerated the indisciplined behaviour of the applicant, ^{except} ~~accept~~ at the cost of education of the children in the concerned KV. On perusal of the documents brought on record during the pleadings, we are convinced that the transfer order of the applicant has been issued by the respondents in proper and correct exercise of the powers vested in them in terms of the guide lines fixed by the KVS. Allegations by the applicant of malafides or the existence of the conspiracy are not based on any facts and have to be rejected as such. The Tribunal cannot direct the Sangthan to keep on its rolls in a particular school, an individual whose activities are prone to give rise to indiscipline. However, as the applicant himself had sought an alternate posting, which the respondents have accepted in principle the matter could be disposed accordingly. The respondents could consider posting the applicant to Agra, the station which he has opted for, amongst the five places indicated by them. This would ensure

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that the applicant is kept away from Nazirabad, his earlier station and at the same time he is given a place of his choice where he should prove himself to be a proper teacher, by his improved behavioural pattern. As he has not been working it would not be correct to accede to his request for grant of full pay and allowances. However, he could be given a portion of the same, more by way of subsistence pay.

7. In the view of the matter, the application is disposed of by setting aside the impugned order dated 30.4.2001 transferring the applicant from KV Nazirabad to KV Aizawal. Respondents are directed to consider issuing a fresh order posting him to Agra, one of the 5 places of choice they have indicated, which he had accepted. This order should be issued within one month from the date of receipt of a copy of this order. They shall also ensure that after being posted to Agra, he shall not be immediately posted out on the ground of being rendered surplus, but only in accordance with the instructions and guide lines for dealing with surplus staff. Respondent shall also grant him pay and allowances, worked out at 50% what of would have been due to him while performing his duties but for his impugned transfer. No costs.

S. Raju

(Shanker Raju)
Member (J)

Patwal/

(Govindan S. Tampi)
Member (A)